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OFFICE OF THE STATE COMPTROLLER

February 6, 2006

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Long Term Home Health Care
Program Follow Up
Report 2005-F-19

Dear Dr. Novello:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Long Term Home Health Care Program* (Report 2002-S-43).

Background, Scope and Objectives

The Department administers the State's Medical Assistance program (Medicaid), which was established in accordance with Title XIX of the federal Social Security Act to provide medical assistance to needy people. In New York, the federal, State and local governments jointly fund the Medicaid program. The Department's fiscal agent, Computer Sciences Corporation, used the Medicaid Management Information System, a computerized payment and information reporting system, to process Medicaid claims and pay providers for medical services they render to eligible Medicaid recipients.

In 1978, New York State authorized the provision of Long Term Home Health Care Program (LTHHCP) services. The LTHHCP is a coordinated plan of care and services provided at home to invalid, infirmed, or disabled persons who are medically eligible for placement in a hospital or skilled nursing facility. Certified home health agencies, nursing homes or hospitals may provide LTHHCP services in the person's home, the home of a responsible relative or other adult, or in a congregate care setting, such as a retirement community residence. The intent of the LTHHCP is to prevent premature hospital or nursing home placement of individuals who could be cared for at home. According to Department officials, in practice the LTHHCP is used exclusively to divert people from nursing home placement.

New York State law and regulations require that persons getting long term care at home receive services that are comparable to those that would be provided in a nursing home, as appropriate. LTHHCP providers are required to provide: nursing services; medical social services; home health aide services; medical supplies and equipment; physical therapy; speech therapy; respiratory therapy; nutritional counseling; and personal care services including homemaker and housekeeper. Providers may also render waived services, which include: home maintenance tasks; home improvement services; respite care; social day care; social transportation; home-delivered meals; and moving assistance. Waived services are services not normally covered under New York State's Medicaid program, but the LTHHCP providers may offer these services and be reimbursed for them, under federal waivers and State law. Care for LTHHCP recipients also includes ancillary services, such as: physician services; medical equipment; pharmacy; inpatient; medical-related transportation; laboratory; and adult day care.

New York State Social Services Law and regulations also require that the annual cost of care for each LTHHCP recipient be no more than 75 percent of the average annual cost of nursing home care in the recipient's local social services district (local district). State law and regulations stipulate two exceptions to this cost limit: 1) expenditures for recipients with AIDS, who are in an AIDS home care program, are unlimited; and, 2) expenditures for recipients designated as persons with special needs are limited to 100 percent of the average annual cost of nursing home care in the recipients' local district. Persons with special needs are defined as those whose care needs include respiratory therapy, tube feeding, skin wound care or insulin therapy that cannot be provided through personal care services, or who have one or more of the following conditions: a mental disability; AIDS; or dementia, including Alzheimer's disease.

Throughout New York State, 58 local districts, including the Home Care Services Program (HCSP) within New York City's Human Resources Administration (HRA), administer the LTHHCP, under the Department's supervision. The local districts' responsibilities include: assessing the care needs of LTHHCP applicants jointly with nurses from the LTHHCP providers; and, determining whether the LTHHCP can provide essential services at a cost that is less than the cost of nursing home care.

For the period January 1, 2002 through December 31, 2004, Medicaid paid \$86.3 million for LTHHCP, other home health care and ancillary services provided to nearly 64,806 recipients.

Our initial audit report, which was issued on June 24, 2004, examined the applicable controls at the Department for maintaining LTHHCP expenditures within statutory limits during the two-year period October 1, 2000 through September 30, 2002. Our report identified certain factors that caused the cost of care for the LTHHCP recipients to exceed the regulatory limits. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation as of December 20, 2005 of the four recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Department officials have made some progress in correcting the problems we identified. However, additional improvements are needed. Of the four audit recommendations, one recommendation has been implemented, two recommendations have been partially implemented and one recommendation has not been implemented.

Follow-up Observations

Recommendation 1

Determine whether local social services districts have established adequate procedures for ensuring that each LTHHCP recipient receives services in compliance with the regulatory cost limits.

Status - Partially Implemented

Agency Action - Department officials determined by questions from and experiences with local district officials, as well as points brought out in our initial audit, that a manual was needed to establish adequate procedures to ensure that each LTHHCP recipient receives services in compliance with the regulatory cost limits. It organizes the cumulative guidance of the memos sent out over the course of 30 years into a comprehensive resource which has all of the necessary forms and exemplar case studies to determine compliance. This manual is still in a draft stage. It must be approved by Department executive management before it is distributed and implemented.

Recommendation 2

Consider and respond to HCSP's request to:

- *Implement and enforce a document submission timeliness requirement for LTHHCP providers in New York City, and*
- *Devise mechanisms that would prevent Medicaid payments for unauthorized LTHHCP services or for other services provided to recipients outside of the LTHHCP.*

Status - Partially Implemented

Agency Action - A document submission timeliness requirement for LTHHCP providers in New York City has not been established and therefore cannot be enforced. There is a memorandum sent to New York City providers requesting complete documentation on each applicable case until the truncation problem identified in the initial audit is resolved. This memorandum implements document submission requirements but no specific timing requirement. There is no mechanism for, or prevention of, receipt of unauthorized services or for other services provided to recipients outside of the LTHHCP.

A mechanism that would prevent Medicaid payments for unauthorized LTHHCP services, or for other services provided to recipients outside of the LTHHCP, is being addressed in two ways. The first is the manual. It is currently in draft, and will be distributed to both the local districts and the providers to improve timeliness. The second is a client data interface to do inquiries of the eMedNY data warehouse. It is expected to improve the timeliness and accuracy of client specific data acquisition. The interface is in process but is incomplete at this time as data processing resources are devoted to the full implementation of other eMedNY priorities.

Recommendation 3

Work with the HCSP and LTHHCP providers in New York City to ensure the planned upgrade of HCSP's computerized LTHHCP case management system is completed efficiently and effectively, and is tested thoroughly before being implemented.

Status - Not Implemented

Agency Action - The program upgrade has still not been completed. The Department is working on the New York City changes now. The system in New York City is old and needs to be integrated with the eMedNY system. The Department plans to use this upgrade to correct the truncation problem identified in the initial audit. The correction cannot proceed until the integration is accomplished.

Recommendation 4

Evaluate Nassau and Suffolk DSS' methods of obtaining and reviewing LTHHCP expenditure amounts and determine whether these methods are feasible for other local districts.

Status – Implemented

Agency Action - Department officials have determined that the success in Nassau and Suffolk counties is due to good communication between their data processing staffs and their case workers to get more accurate and timely claims data. Their data processing staffs are very proactive in developing data for case workers. With this data the local district case worker can adjust the cap and discover those which cannot be in the LTHHCP program. Department officials discuss Nassau and Suffolk counties methods in workshops with the local districts as a best practice.

Major contributors to this report were Bill Clynes, Don Collins and Jennifer Van Tassel.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Steven E. Sossei
Audit Director

cc: Robert Barnes, Division of Budget