
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF HEALTH

**INAPPROPRIATE
MEDICAID PAYMENTS FOR
DURABLE MEDICAL
EQUIPMENT WHILE
RECIPIENTS RESIDED IN
NURSING HOMES**

Report 2007-S-18

AUDIT OBJECTIVE

The objective of our audit was to determine whether Medicaid payments for non-custom durable medical equipment and medical-surgical supplies were inappropriately made while recipients resided in nursing homes.

AUDIT RESULTS - SUMMARY

During our five year audit period ended February 28, 2007, we identified approximately \$3.1 million in Medicaid payments for non-custom durable medical equipment and medical-surgical supplies (DMEs) that were billed on behalf of recipients residing in nursing homes. Because the comprehensive Medicaid rates for nursing homes include the cost of such DMEs, providers should not bill separately for these services. Rather, providers should directly bill nursing homes unless the DME is required as a part of a recipient's continuation of care upon discharge. Accordingly, there is a strong potential that the \$3.1 million billed for recipients in nursing homes is inappropriate. Our tests of records at four providers and two residential facilities confirmed instances of inappropriate billings for DMEs.

Certain matters were referred to the New York State Office of the Medicaid Inspector General for further review and investigation.

Our report contains three recommendations. Department of Health officials generally agreed with our recommendations.

This report, dated January 17, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Department of Health (Department) administers the Medicaid program, which was established under Title XIX of the federal Social Security Act. The program is funded jointly by the federal, State and local governments. Its management information and claims processing functions are handled through the State's eMedNY system.

Section 4.4 of the NYS Medicaid Program Durable Medical Equipment Procedure Codes manual defines standard and non-custom-made durable medical equipment. Medical-surgical supplies are defined in Sections 4.1 and 4.2. Non-custom-made durable medical equipment and medical surgical supplies are also known as DMEs. Examples of DMEs include, but are not limited to, items such as canes, crutches, hearing devices, diapers, wound dressings and gauze, gloves, and enteral formula (nutrients furnished through tube feeding).

AUDIT FINDINGS AND RECOMMENDATIONS

Medicaid Payments for Non-custom Durable Medical Equipment and Medical-Surgical Supplies

Under Part 86 of Title 10 of the New York State Health Codes, Rules and Regulations, Section 86-2.10, the Department establishes all-inclusive rates that cover the costs of most basic services provided to Medicaid recipients who are in residential health care facilities, including nursing homes. According to the Department's Medicaid billing guidelines, separate reimbursement for DMEs is prohibited while a recipient is in a nursing home because these costs are included in the all-inclusive nursing home reimbursement rates. The Department reminded providers of this restriction in the June 2002 and

September 2003 editions of *Medicaid Update*, the Department's official publication for Medicaid providers.

During our five year audit period, Medicaid paid approximately \$3.4 million for DMEs billed while recipients resided in nursing homes. According to Department officials, DME claims billed separately, in advance of a recipient's discharge from a nursing home, may be appropriate if the claim is for the recipient's continuation of care upon transition out of the nursing home. Specifically, Department officials stated that DME claims billed on the last day of a recipient's nursing home stay may be appropriate if the DME is required for discharge. We therefore excluded from the \$3.4 million approximately \$363,000 in DME billings that occurred on the last day of a recipient's nursing home stay.

We analyzed the remaining \$3.1 million in DME claims billed while recipients resided in nursing homes. During our audit we visited four providers to review 174 records supporting DME billings totaling \$15,172. We determined 158 claims for DMEs totaling \$14,213 were inappropriately billed for recipients in a nursing home. For example:

- A \$150 DME claim for oxygen supplies dated April 5, 2004 for a recipient residing in a nursing home from January 19, 2004 through June 10, 2005;
- DME claims totaling \$168 for disposable under pads dated September 13, 2004 and October 14, 2004 for a recipient residing in a nursing home from April 19, 2004 through March 22, 2005; and

- A \$98 DME claim for adult diapers dated January 16, 2003 for a recipient residing in a nursing home from June 26, 2001 through April 20, 2005.

Our review of providers' records confirmed instances of inappropriate billings for DMEs and certain matters were referred to the New York State Office of the Medicaid Inspector General for further review and investigation. Accordingly, there is potential the \$3.1 million billed for DMEs for residents in nursing homes is inappropriate. The Department should review the \$3.1 million we identified and recover inappropriate payments.

We determined overpayments for DMEs can occur because there are no edits in the eMedNY system that would deny DME claims for a recipient residing in a nursing home. We also determined DME providers did not comply with Department guidelines for billing Medicaid, as outlined in the June 2002 and September 2003 editions of the Department's publication, *Medicaid Update*. The Department should remind DME providers of the appropriate way to bill Medicaid for services provided to recipients in nursing homes, since providers were last updated on this topic several years ago.

Recommendations

1. Review the \$3.1 million in payments we identified and recover inappropriate payments.

(The Office of the Medicaid Inspector General will review the identified payments and pursue appropriate recoveries.)

2. Implement appropriate edits to the eMedNY system to prevent future overpayments from occurring.
3. Remind DME providers on the appropriate way to bill Medicaid for services provided to recipients in nursing homes.

(The Department agrees with recommendations 2 and 3.)

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the Department's administration of Medicaid payments for DMEs while recipients resided in nursing homes for the period March 1, 2002 through February 28, 2007.

To accomplish our objectives we met with Department and New York State Office of the Medicaid Inspector General representatives to gain an understanding of the policies and controls surrounding the appropriateness of payments for DMEs made on behalf of recipients residing in nursing homes. We reviewed applicable sections of federal and State laws and regulations, and examined the Department's relevant policies and procedures. We extracted questionable claims from eMedNY, the Department's centralized Medicaid payment system, and verified the accuracy of such payments.

We judgmentally selected and visited four DME providers who were among the highest paid DME providers during our audit scope. We also visited two residential facilities that housed recipients these DME providers billed for. While onsite at the DME providers, we reviewed medical records and other documentation supporting 48 random and 126 judgmentally selected paid DME claims; we

judgmentally selected claims that were paid within certain time frames from recipient nursing home discharge dates. While onsite the residential facilities, we reviewed admission and discharge dates for 9 random and 28 judgmentally selected Medicaid recipients for whom high dollar values of DMEs were billed.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed 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.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. We considered their response in preparing this report. The Department's response to the draft report is included in Appendix A to this report. Department officials agreed with our recommendations.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Sheila Emminger, Andrea Inman, Dennis Buckley, Christopher Morris, Peter Amorosa, Judith McEleney, and Tracy Samuel.

APPENDIX A - AUDITEE RESPONSE



Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

December 19, 2007

Sheila A. Emminger, Audit Manager
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Ms. Emminger:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's draft audit report 2007-S-18 on "Inappropriate Medicaid Payments for Durable Medical Equipment While Recipients Resided in Nursing Homes."

Thank you for the opportunity to comment.

Sincerely,



Wendy E. Saunders
Chief of Staff

Enclosure

cc: Stephen Abbott
Deborah Bachrach
Homer Charbonneau
Randall Griffin
Gail Kerker
Sandra Pettinato
Robert W. Reed
Philip Seward
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**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2007-S-18 on
“Inappropriate Medicaid Payments
for Durable Medical Equipment
While Recipients Resided in Nursing Homes”**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) draft audit report 2007-S-18 on "Inappropriate Medicaid Payments for Durable Medical Equipment While Recipients Resided in Nursing Homes."

Recommendation #1:

Review the \$3.1 million in payments we identified and recover inappropriate payments.

Response #1:

The Office of the Medicaid Inspector General (OMIG) will analyze the detail of the potential overpayments and pursue appropriate recoveries.

Recommendation #2:

Implement appropriate edits to the eMedNY system to prevent future overpayments from occurring.

Response #2:

The Department will request an evolution project to create an edit for non-custom durable medical equipment provided to nursing home residents. Custom durable medical equipment is not included in the nursing home rate.

Recommendation #3:

Remind DME providers on the appropriate way to bill Medicaid for services provided to recipients in nursing homes.

Response #3:

The Department will remind providers of their responsibility to bill appropriately for services provided to nursing home residents. Providers are responsible for understanding the rules of the program which are accessible in their provider manual and reinforced via Medicaid Update publications.