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OFFICE OF THE STATE COMPTROLLER

November 20, 2008

Richard F. Daines, M.D.  
Commissioner  
Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

Re: Report 2008-F-23

Dear Dr. Daines:

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, *Medicaid Payments To Home Care Providers While Recipients Were Hospitalized* (Report 2006-S-77).

**Background, Scope and Objective**

The Department administers Medicaid which was established under Title XIX of the federal Social Security Act to provide needy people with medical assistance. In New York State, this 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, which the Department implemented on March 24, 2005.

Home care services consist of feeding, dressing, housekeeping, assistance in personal hygiene and other health related tasks. Home care services can be reimbursed by Medicaid when the services help the recipient to live at home. A Medicaid claim for home care services should not be paid during a period in which the recipient was hospitalized. Payments for home care services would be appropriate on the day a recipient is admitted to the hospital and the day of discharge. While hospitalized, the hospital provides the care needed by the recipient and receives payment from Medicaid for the costs of medical services provided.

Our initial audit report, which was issued on August 28, 2007, examined Medicaid claims paid to hospital and home care providers during the five year audit period end April 30, 2006, to determine whether New York State's Medicaid program made inappropriate payments to home care providers while recipients were hospitalized. During our five year audit period ended April 30,

2006, we identified \$5.7 million in inappropriate Medicaid payments made to home care providers while recipients were hospitalized. We concluded that it was likely that home care providers were billing for services that were never rendered.

The objective of our follow-up was to assess the extent of implementation, as of October 29, 2008, of the three recommendations included in our initial report.

### **Summary Conclusions and Status of Audit Recommendations**

We found that Department officials have made significant progress in correcting the problems we identified. Of the three prior audit recommendations, two recommendations have been implemented and one recommendation has not been implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*Review the \$5.7 million payments we identified and recover inappropriate payments.*

Status - Implemented

Agency Action - According to Department officials, the Office of Medicaid Inspector General (OMIG) has recovered \$2.4 million in inappropriate payments for claims filed during October 2001 and December 2004. In addition, OMIG has identified another \$2.9 million in inappropriate payments for claims filed through December 2006. OMIG officials are in the process of collecting these outstanding amounts.

#### **Recommendation 2**

*Determine if edits could be designed to prevent these overpayments from occurring.*

Status - Implemented

Agency Action - OMIG has determined that an edit could be designed to prevent the payment of certain home care services during an inpatient stay. Officials stated that this edit could be implemented with a bypass for those home care services codes that are appropriate during an inpatient stay; however, officials would still need to conduct a post-payment review of certain allowable home care services codes to determine their appropriateness.

#### **Recommendation 3**

*Review the billing practices of provider agencies affiliated with the Consumer- Directed Personal Assistance Program for compliance with Department guidelines.*

Status - Not implemented

Agency Action - Currently, OMIG has not reviewed the billing practices of provider agencies affiliated with the Consumer Directed Personal Assistance Program. However, OMIG has developed, and is in the process of approving, audit protocol that will be used to conduct billing practice reviews of these affiliated providers. According to OMIG officials, once the audit protocol is approved the reviews will begin statewide.

Major contributors to this report were Karen Bogucki, Danielle Rancy, Robert Horn and Benjamin Felts.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issue 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,

Sheila A. Emminger  
Audit Manager

cc: Tom Lukacs, Division of Budget  
Stephen Abbott, Department of Health  
Steve Sossei, OSC Division of State Government Accountability