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OFFICE OF THE STATE COMPTROLLER

February 12, 2009

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

Re: Report 2008-F-25

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 Referred Ambulatory And Laboratory Providers While Recipients Were Hospitalized* (Report 2006-S-90).

Background, Scope and Objectives

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

Under Part 86 of Title 10 of the New York State Health Code, Rules and Regulations, Section 86-1.18, the Department establishes all-inclusive hospital inpatient rates that cover the costs of almost all services provided to Medicaid recipients that are hospitalized. Additionally, 18 NYCRR 505.7(g) (7) specifically prohibits separate laboratory billings while a recipient is hospitalized.

Recipients treated as inpatients in a hospital may be referred to other medical facilities for ambulatory services such as radiology (x-rays, CAT Scans, MRIs, etc.) when these services cannot be provided at the hospital where the recipient is staying. Similarly, patients requiring certain laboratory tests may have them performed at other facilities when necessary. However, Medicaid will not pay separately for referred ambulatory and laboratory services when these services are included

in a hospital's Medicaid payment rate. In these instances, the providers of service should seek reimbursement directly from the hospitals. Separate payments will also not be made for referred ambulatory and laboratory services if these services are billed by the hospital where the patient is staying.

The Office of Alcohol and Substance Abuse Services (OASAS) plans, develops and regulates the State's system of chemical dependence and gambling treatment agencies. This includes the direct operation of addiction treatment centers that provide inpatient rehabilitation services. In addition, OASAS licenses, funds, and supervises local community-based programs and chemical dependence treatment programs. OASAS establishes reimbursement rates for the facilities it is responsible for.

Our initial audit report, which was issued on December 10, 2007, determined whether New York State's medical assistance program (Medicaid) made inappropriate payments to ambulatory and laboratory providers while recipients were hospitalized. Our report identified over $2.3 million in inappropriate Medicaid payments to referred ambulatory and laboratory providers while recipients were hospitalized. Our review of medical claims data showed the Medicaid recipients were hospitalized at the time the referred ambulatory or laboratory services were supposedly provided. Because the comprehensive hospital rates included the cost of such services, the referred ambulatory and laboratory providers should not have billed Medicaid separately for their services. We also questioned an additional $622,937 in payments to referred ambulatory and laboratory providers for recipients hospitalized in facilities where the Medicaid payment rates are established by OASAS. The objective of our follow-up was to assess, as of January 22, 2009, the extent of implementation of the six recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Department officials have made some progress in correcting some of the problems we identified. However, additional improvements are needed. Of the six prior audit recommendations, four recommendations have been implemented and two recommendations have been partially implemented.

Follow-up Observations

Recommendation 1

Review the $2.3 million referred ambulatory and laboratory payments we identified and recover overpayments where appropriate.

Status - Implemented

Agency Action - The Office of the Medicaid Inspector General (OMIG) has completed audit reviews for the $2.3 million we identified in our original audit and an additional $4.8 million in potential overpayments to referred ambulatory and laboratory providers while recipients were hospitalized. OMIG officials report they have recovered $3.2 million from these providers and are in the process of collecting an additional $1.1 million.

Recommendation 2

Instruct referred ambulatory and laboratory providers on the appropriate way to bill Medicaid for services provided to hospitalized recipients.

Status - Implemented

Agency Action - In response to our report, the Department published instructions for providers in a Medicaid Update that clarified who pays for clinic, ambulatory or laboratory services for hospital patients.

Recommendation 3

Ensure that the Medicaid referred ambulatory provider manual, which is currently being revised, includes clearly defined guidelines for billing services provided to hospitalized recipients.

Status - Implemented

Agency Action - The Department updated the Hospital-Based/Free-Standing Clinic Ordered Ambulatory Manual to explain the guidelines for billing services provided to hospitalized Medicaid recipients.

Recommendation 4

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

Status - Partially Implemented

Agency Action - On March 13, 2008, the Department implemented Edit 760 to deny inappropriate clinic, ambulatory or laboratory claims billed for a hospital patient. In order for this edit to function correctly, the hospital claim must have been processed by eMedNY before the clinic, ambulatory or laboratory claims are submitted to eMedNY for processing. As of August 8, 2008, this edit denied claims totaling $751,814, since the edit was implemented.

The Department implemented Edit 759 on November 8, 2007. Edit 759 identifies and pays inpatient claims that are processed subsequent to clinic, ambulatory or laboratory claims paid for services provided to the same recipient during the dates of the hospital stay. Edit 759 places identifying information on these claims so the claims can be reviewed for appropriateness at a future date. OMIG officials report that its 2008-2009 audit plan includes reviews of the appropriateness of clinic, ambulatory or laboratory claims billed while a recipient is hospitalized. However, the results from Edit 759 had yet to be included in these reviews.

Recommendation 5

OMIG should re-evaluate its process for identifying referred ambulatory and laboratory payments made for hospitalized recipients.

Status - Implemented

Agency Action - OMIG officials stated that their 2008-2009 audit plan now includes plans to review claims for providers not affiliated with the claiming hospital as well as providers affiliated with the claiming hospital to identify inappropriate referred ambulatory and laboratory payments made for hospital patients. Prior to our initial audit, non-affiliated providers were not included in OMIG's audit plan.

Recommendation 6

Verify that OASAS requires providers to report sufficient cost information to determine what services are included in a provider's reimbursement rate.

Status - Partially Implemented

Agency Action - OASAS officials have redefined their New York State Consolidated Fiscal Reporting (CFR) and Claiming Manual to give guidance to OASAS providers. Prior to our original audit, the CFR reports did not break out specific costs. After changes to the CFR manual, the CFR reports now include specific cost details, including those for laboratory and referred ambulatory services. This guidance has been issued and is currently undergoing revisions based upon provider feedback and OASAS evaluation.

Major contributors to this report were Karen Bogucki, Donald Collins, Earl Vincent, Rebecca Vaughn and Benjamin Felts.

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 review.

Very truly yours,

Sheila Emminger
Audit Manager

cc: Stephen Abbott, DOH
Tom Lukacs, DoB
Steve Sossei, OSC