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OFFICE OF THE STATE COMPTROLLER

December 18, 2008

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

Re: Report 2008-F-45

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 Department of Health (Department) officials to implement the recommendations contained in our audit report, *Medicaid Overpayments of Medicare Part B Deductibles* (Report 2006-S-122).

Background, Scope and Objective

The Department administers the Medicaid program in New York State. Many of the State's Medicaid recipients are also eligible for Medicare Part B, which provides coverage for outpatient services such as doctor visits, clinical laboratory tests, blood work, outpatient hospital services, and, in some cases, home health care. All individuals enrolled in Medicare Part B are responsible for paying Medicare an annual deductible. The amount Medicare pays to providers varies depending upon the service provided and whether a Medicare recipient has or has not met their annual deductible limit. For example, if a beneficiary has not met their annual deductible, Medicare deducts the balance of the beneficiary's deductible from the amount it pays the beneficiary's medical providers. When a patient is eligible for Medicare and Medicaid, Medicaid will reimburse providers for the cost of the patients' annual Part B deductible. During the period January 1, 2003 through November 30, 2006, Medicaid paid over \$19 million to approximately 11,000 providers to cover the cost of Medicare Part B deductibles.

Our initial audit report, which was issued on October 16, 2007, examined Department controls over Medicare Part B deductibles to determine if Medicaid overpayments were made for Part B deductibles and the causes for such overpayments. Our report identified an estimated \$592,000 in overpayments (\$539,000 due to double billings by over 2,000 providers and \$53,000 due to excessive billings by a provider submitting near duplicates). We found providers lacked sufficient

understanding on how to properly bill for Medicare Part B deductibles and the Department lacked necessary controls in their claims processing system (eMedNY) to prevent overpayments for deductibles.

The objective of our follow-up was to assess, as of November 24, 2008, the extent of implementation of the three recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

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

Follow-up Observations

Recommendation 1

Develop and implement edits in the Department's eMedNY claims processing system to track Medicare deductible claims and prevent excessive/double billing.

Status - Not Implemented

Agency Action - The Department has discussed two possible alternatives for developing and implementing edits in eMedNY. One alternative is automated Medicare to Medicaid crossover billing. The Medicare payment information would be sent directly to Medicaid from Medicare for accurate claims processing. The other alternative is to track Medicare Part B deductibles by recipient to ensure Medicaid payments do not exceed the annual Medicare Part B deductible per Medicaid recipient. However, we determined the Department has not developed or implemented edits in eMedNY to prevent excessive/double billing of Medicare deductible claims, and in fact such edits are not on the Department's priority list of projects.

Recommendation 2

Clarify and communicate to all providers the billing rules associated with Medicare deductibles and coinsurance.

Status - Implemented

Agency Action - The Department re-issued and explained the billing rules associated with Medicare deductibles and coinsurance in the December 2007 edition of *Medicaid Update*, the Department's official publication for Medicaid providers.

Recommendation 3

Investigate and recover all overpayments made to providers for excessive/double billing of Medicare deductibles.

Status - Partially Implemented

Agency Action - The Department, through the Office of the Medicaid Inspector General (OMIG), has identified a population of claims of potential Medicare Part B deductible overpayments. The OMIG will sample these claims to determine if overpayments were made to providers. Once the sample work is complete, the OMIG will send letters to providers who were overpaid explaining the overpayments and how the providers should remit such payments back to the Medicaid program.

Major contributors to this report were Andrea Inman and Daniel Towle.

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, Department of Health
Tom Lukacs, Division of the Budget