

THOMAS P. DiNAPOLI  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

July 2, 2009

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

Re: Report 2008-F-46

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, *Inappropriate Medicaid Billings For Dental Services* (Report 2007-S-3).

**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.

Dental service providers must comply with the Department's Medicaid Dental Manual (Manual) when submitting claims for reimbursement. The Manual contains policy guidelines, prior approval guidelines, billing guidelines, fee schedules, and codes to use for reimbursable dental procedures. According to the Manual, "restorative fillings redone over a short time period without clinical indication are deemed to be services which do not meet existing standards of professional practice." The Manual further states that quadrant dentistry should be practiced, whenever practicable. In quadrant dentistry, the inside of the mouth is divided into four quadrants of eight teeth each, and dental procedures usually are not performed on more than one quadrant in any one office visit. The Manual also states that providers are required to maintain comprehensive patient dental records, which are to be available upon request.

Our initial audit report, which was issued on September 28, 2007, examined Medicaid claims paid to Mohinder Mayell, DDS, a sole proprietor who operated two dental facilities in Brooklyn. For the period April 1, 2003 through March 28, 2007, Dr. Mayell was paid about \$896,000 for Medicaid claims he submitted through eMedNY. Our audit determined that Dr. Mayell often submitted inappropriate claims, wherein Medicaid recipients received unusually high numbers of dental services in a single office visit or over periods of several months. For example, in 97 instances, Dr. Mayell submitted claims for 25 or more fillings for individual patients during a single office visit. In one instance, Dr. Mayell claimed to have performed 52 fillings for an individual recipient within one day.

Consequently, we interviewed Dr. Mayell and reviewed his medical records supporting certain Medicaid payments he received. Many of the claims we reviewed were not supported by the medical records and did not comply with the rules set forth in the Manual. As a result, we recommended that \$47,000 in pending claims from Dr. Mayell not be paid and that \$78,000 in prior payments be recovered from him. We also requested the Department to review the remaining \$771,000 in claims from our audit period that were not included in our sample and recover any additional unsupported or otherwise inappropriate payments. In addition, we recommended that the Department determine if Dr. Mayell should be decertified as a participating Medicaid provider and develop controls within eMedNY to prevent payments for excessive claims for fillings.

As a result of our initial audit, we referred Dr. Mayell and his Medicaid billing practices to the Kings County District Attorney for investigation. On June 26, 2008, the Kings County District Attorney announced the guilty plea of Dr. Mayell for improper billings to Medicaid, including the claim for 52 fillings for one patient in one day. The plea agreement required Dr. Mayell to pay restitution of \$75,000, surrender his dental license, and never again practice dentistry in New York State. He was also precluded from applying for approval as a Medicaid provider in the future.

The objective of our follow-up was to assess, as of February 2, 2009, the extent of implementation of the four recommendations included in our initial audit report.

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

We determined that Department officials implemented the four recommendations from our initial report. As a result of its actions, the Department saved and recovered nearly \$311,000 for the Medicaid program.

### **Follow-up Observations**

#### **Recommendation 1**

*Do not pay Dr. Mayell the \$47,000 in pending reimbursements for the disallowed claims in our sample, and recover the \$78,000 that was already paid. Review the remaining \$771,000 in claims from our audit period that were not included in our sample, and recover any additional unsupported or otherwise inappropriate payment.*

Status - Implemented

Agency Action - The Department withheld \$55,747 in pending Medicaid payments that were claimed by Dr. Mayell at the time of our initial audit. In addition, as part of the plea agreement with the District Attorney, Dr. Mayell paid \$75,000 in restitution. Pursuant to the plea agreement, no further actions were taken on the remaining payments made during our audit period.

**Recommendation 2**

*Determine whether Dr. Mayell should be decertified as a participating provider in New York State's Medicaid program.*

Status - Implemented

Agency Action - On August 5, 2008, the Department decertified Dr. Mayell from participation in the State's Medicaid program.

**Recommendation 3**

*Establish and implement a maximum threshold for the number of fillings a recipient can receive at one dental visit. Develop an eMedNY claim processing edit to flag Medicaid claims exceeding this threshold.*

Status - Implemented

Agency Action - In October, 2008, the Department completed development of eMedNY system edits to identify claims for more than 20 fillings on a Medicaid recipient during a single office visit. The edits suspend such claims for review by the Department's dental provider peer review experts. After testing the new edits, the Department placed them into operation through the eMed NY system, effective January 1, 2009.

**Recommendation 4**

*Develop an eMedNY claim processing edit to flag claims for replacement fillings provided too soon.*

Status - Implemented

Agency Action - The Department implemented edit no. 712 that suspends Medicaid claims for apparent repeat fillings (more than two) on the same tooth within a two-year period. Since the Department implemented this edit, the eMedNY system has denied 1,840 claims for repeat fillings that would have cost \$180,070.

Major contributors to this report were Robert Wolf and Earl Vincent.

We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Brian E. Mason  
Audit Manager

cc: Mr. Thomas Lukacs, DoB  
Mr. Stephen Abbott, DoH  
Mr. Steven Hamilton, OSC