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OFFICE OF THE STATE COMPTROLLER

May 7, 2009

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

Re: Report 2008-F-56

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 Restorations* (Report 2007-S-71).

**Background, Scope and Objective**

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. Medicaid claims are processed and paid through the State's eMedNY system, which the Department implemented on March 24, 2005.

Our initial audit report, issued on November 26, 2007, identified five dentists who billed Medicaid questionable claims for excessive amounts of dental services. Specifically, in 151 instances, these dentists claimed to have provided a Medicaid recipient with 25 or more fillings during a single office visit. For the four-year period ended March 31, 2007, Medicaid reimbursed the five dentists about \$10.1 million. During our audit, we tested 1,841 claims totaling \$148,341 and found them all to be inappropriate and potentially fraudulent. Many of the claims were not supported by medical records, and others did not properly identify the dentist who performed the service.

These inappropriate payments occurred because the dentists did not comply with Department regulations for billing Medicaid, and the eMedNY system lacked the controls necessary to detect and prevent these types of inappropriate payments from occurring. Our objective was to assess as of April 8, 2009, the extent of implementation of the five recommendations included in our initial audit report.

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

Department officials made significant progress in addressing the issues included in our initial report. Officials implemented each of the report's five recommendations. Moreover, as a result of the actions taken, the Department has recovered about \$472,000 in overpayments from the dentists in question, and additional recoveries are anticipated.

### **Follow-up Observations**

#### **Recommendation 1**

*Investigate and recover the \$148,341 in inappropriate claims identified during the audit.*

Status - Implemented

Agency Action - The Office of the Medicaid Inspector General (OMIG) began investigations of the five dentists included in our original audit. Investigations of three of the dentists were subsequently transferred to the Attorney General's Medicaid Fraud Control Unit, and the Department has suspended payments to these three dentists. Also, at the time of our review, the Department was recovering payments made to the two remaining dentists and had suspended future payments to them as well.

#### **Recommendation 2**

*Review the dentists' remaining 103,964 claims totaling over \$9.9 million billed to Medicaid during our audit period to determine whether the dental restoration services were appropriate. Recover inappropriate payments where warranted.*

Status - Implemented

Agency Action - The OMIG reviewed additional claims and identified over \$1 million in overpayments to the three dentists for whom investigations were subsequently transferred to the Attorney General. At the time of our review, the OMIG was also reviewing additional payments to the other two dentists included in our audit. As a result of the actions that have been taken, the Department has recovered about \$472,000 from the dentists, and additional recoveries are anticipated.

#### **Recommendation 3**

*Reinstruct dental providers on the requirements to appropriately identify servicing providers on Medicaid claims.*

Status – Implemented

Agency Action - The Department published new instructions for dental providers in the January 2008 Medicaid Update on the appropriate way to identify servicing providers on Medicaid claims.

**Recommendation 4**

*Routinely review Medicaid claims submitted by group providers to determine if the servicing providers were appropriately identified. Recover inappropriate payments where warranted.*

Status - Implemented

Agency Action - As part of its standard audit process, the OMIG routinely reviews Medicaid claims submitted by group providers to ensure that servicing providers are appropriately identified on the claims.

**Recommendation 5**

*Expedite the development and implementation of the projects to suspend or deny payment of dental claims where a specified number of teeth and a specified number of surfaces are restored on a single date of service.*

Status - Implemented

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

Major contributors to this report were Warren Fitzgerald 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 Sossei, OSC