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COMPTROLLER

OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

DEPARTMENT OF HEALTH

MEDICAID OVERPAYMENTS OF COINSURANCE FEES FOR MEDICARE BENEFICIARIES

Report 2008-S-128

AUDIT OBJECTIVE

Our objective was to identify Medicaid overpayments made to providers who did not properly report Medicare Part B information on their Medicaid claims.

AUDIT RESULTS - SUMMARY

During the year ended December 31, 2006, our audit identified almost $2.7 million in Medicaid overpayments to medical providers who improperly recorded Medicare Part B information on their claims to Medicaid.

This report, dated January 16, 2009, is available on our website at: http://www.osc.state.ny.us. Add or update your mailing list address by contacting us at:
(518) 474-3271 or
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Department of Health (Department) administers the Medicaid program in New York State. Many of the State's Medicaid beneficiaries are also eligible for Medicare. Such beneficiaries are referred to as "dual eligibles." Medicaid is the payor of last resort for medical claims, paying for any balance unpaid after all other insurance such as Medicare settles. Therefore, a medical provider should bill Medicare first for these dual eligible patients and bill Medicaid only after the amount to be paid by Medicare is known. Medicaid will typically pay an amount based upon the portion of the bill not covered by Medicare. Thus, it is critical that Medicare information be entered accurately on the Medicaid billing. Otherwise, a Medicaid overpayment will occur.

AUDIT FINDINGS AND RECOMMENDATIONS

Medicaid Overpayments of Coinsurance Fees

We obtained from the federal Department of Health and Human Service's Center for Medicare and Medicaid Services (CMS) the 2006 Part B Medicare payment information for dual eligible beneficiaries in New York State. We then compared the amounts paid by Medicare with the amounts reported on New York's Medicaid system. Our test was designed to identify instances where medical providers billed Medicaid and misreported Medicare information, thus setting up a potential Medicaid overpayment situation. Our audit identified a number of physicians, durable medical equipment dealers, and laboratories who did not accurately report Medicare billing information on their Medicaid claims. This caused Medicaid to overpay these medical providers by almost $2.7 million.

During our audit, we visited two Medicaid providers with overpayments totaling $262,700 (a physician was overpaid $145,600 and a laboratory was overpaid $117,100) to determine the reasons for these overpayments. From the information provided by CMS, we determined both providers did not properly record the correct Medicare approved amounts on their claims to Medicaid. Instead of the Medicare approved amount, the providers recorded their own charges for the services - these charges were often substantially more than the Medicare approved amount. This billing practice overstates Medicare beneficiaries' Part B coinsurance responsibility, which in turn, causes Medicaid to overpay claims for dual eligibles. For example:

- The physician we visited recorded his own medical charge of $275 on one claim instead of the Medicare approved amount of $107. This resulted in Medicaid overpaying this claim by $168.

- The laboratory we visited recorded $2,434 on one claim instead of the Medicare approved amount of $47. This resulted in Medicaid overpaying this claim by $2,387.

The Department has issued specific guidance on the proper billing of Medicaid for dual eligible beneficiaries and the Department reminds medical providers of such requirements on a regular basis. Nevertheless, our audit shows that providers continue not to comply with the guidance. In total we identified 9,990 providers who submitted over 131,000 claims incorrectly for dual eligible recipients in 2006.

We informed the Department's Medicaid Inspector General of our findings and provided all information we obtained from CMS necessary to investigate the providers identified in our audit. In addition, the two providers we visited during our audit agreed with our findings and agreed to pay back the $262,700 in overpayments we identified.

Recommendations

1. Recover the overpayments totaling $262,700 from physician and laboratory we visited during our audit.

2. Fully investigate the remaining $2.4 million in overpayments we identified and recover inappropriate payments.

AUDIT SCOPE AND METHODOLOGY

We audited Medicaid claims submitted by medical care providers for beneficiaries that are eligible for Medicaid and Medicare. Our audit was limited to the claims covered by Medicare Part B submitted by physicians, durable medical equipment dealers, and laboratories for the year 2006. To accomplish our objective we obtained Medicare claim information from the federal Centers for Medicare and Medicaid Services and compared it with Medicaid claim information maintained by the Department. We interviewed Department officials, reviewed applicable sections of federal and State laws and regulations, and examined the Department's relevant Medicaid payment policies and procedures. We also visited selected Medicaid providers with larger overpayments.

We conducted our audit according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of who have minority voting rights. These duties may be considered management functions for purposes of

evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed 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.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. Department officials generally agreed with our recommendations and indicated actions planned to implement the recommendation. We considered their comments in preparing this report. A complete copy of the Department's response is included as Appendix A.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Warren Fitzgerald, Dan Towle and Jacqueline Keeys-Holston.

APPENDIX A – AUDITEE RESPONSE

STATE OF NEW YORK
DEPARTMENT OF HEALTH
Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Executive Deputy Commissioner

December 19, 2008

Sheila Emminger, Audit Manager
Office of the State Comptroller
Division of State Government Accountability
State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Ms. Emminger:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's draft audit report 2008-S-128 on "Medicaid Overpayments of Coinsurance Fees for Medicare Beneficiaries."

Thank you for the opportunity to comment.

Sincerely,

Wendy E. Saunders
Executive Deputy Commissioner

Enclosure

cc: Stephen Abbott
Deborah Bachrach
Homer Charbonneau
Ron Farrell
Gail Kerker
Sandra Pettinato
Robert W. Reed
James Sheehan

Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2008-S-128 on
"Medicaid Overpayments of Coinsurance Fees for Medicare Beneficiaries"

The following are the Department of Health's (Department) comments in response to Office of the State Comptroller (OSC) draft audit report 2008-S-128 on "Medicaid Overpayments of Coinsurance Fees for Medicare Beneficiaries".

Recommendation #1:

Recover the overpayments totaling $262,700 from the physician and laboratory we visited during our audit.

Recommendation #2:

Fully investigate the remaining $2.4 million in overpayments we identified and recover inappropriate payments.

Responses #1 and #2:

The Office of the Medicaid Inspector General will review the overpayments identified by the OSC and pursue appropriate recoveries.