



New York State Department of Health

Medicaid Payments for Dental Consultations

Report 2010-S-12



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

September 30, 2010

Richard F. Daines, M.D.
Commissioner
NYS Department of Health
Corning Office Building
Empire State Plaza
Albany, New York 12237

Dear Dr. Daines:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of *Medicaid Payments for Dental Consultations*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

Our objective was to determine whether New York's Medicaid program is appropriately reimbursing dental specialists for consultation services.

Audit Results - Summary

The Department of Health (Department) administers New York's Medicaid program. The Department relies on its eMedNY computer system to process and pay provider claims for Medicaid services to recipients. The eMedNY system reimburses accredited dental specialists a fee of \$87 for providing dental consultation services requested by a referring dentist or other healthcare practitioner. For the period March 1, 2005 to March 31, 2010, New York's Medicaid program spent more than \$10 million for dental consultation services.

We found that the Department is not always appropriately reimbursing dental specialists for consultation services. Based on a statistical analysis of a sample of claims paid to the ten dental specialists with the highest reimbursements for consultations during the approximately five year audit period, we estimated that the claims for these specialists alone accounted for at least \$1.2 million of Medicaid overpayments to as much as \$1.3 million. If these results hold true for the claims of all other providers of dental consultations during our audit period, then New York's Medicaid program overpaid an additional \$2.6 million.

We made our determinations by examining the medical records for Medicaid recipients covered by the sampled claims. In so doing, we found many instances where there were no written communications between practitioners to support referrals for consultation services or it was clear that the recipient was obtaining actual dental services rather than consultation from the consulting practitioner. In these instances, the related claims should not have been reimbursed the \$87 fee reserved for consultation services. The appropriate fee would have been \$29.

It appears that there is considerable risk that up coding for services is taking place to maximize reimbursements. This could also represent fraudulent billing practices. It is also possible, that there is lack of understanding among practitioners that consultation service does not pertain to instances where a recipient is transferred from a referring practitioner so that specific procedures can be given to the recipient. We recommended that the Department seek recoveries as appropriate and request the Office of the Medicaid Inspector General to determine whether

fraudulent billing has been taking place. The Department also needs to remind practitioners that the transfer of a recipient for actual, routine care does not constitute dental consultation.

We made three recommendations in our audit report. In their response to our draft report, Department officials indicated that certain steps are planned or have been taken that address our recommendations.

This report, dated September 30, 2010, is available on our website at:

<http://www.osc.state.ny.us>.

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Office of the State Comptroller

Division of State Government Accountability

110 State Street, 11th Floor

Albany, NY 12236

Introduction

Background

The Department of Health (Department) administers New York's Medicaid program. The Department uses its computerized eMedNY system to process and pay provider claims for medical treatment, including dental services. For the State fiscal year ended March 31, 2010, New York's Medicaid program paid about \$316 million for dental services. The services included dentures as well as dental examinations, cleanings, fillings, extractions and consultations.

According to the Department's Medicaid Dental Provider Manual, a dental consultation takes place when a dentist (referring practitioner) seeks advice and counsel from another dental specialist (consulting practitioner) about services to a Medicaid recipient. A dental consultation also takes place when a health care practitioner in a discipline other than dentistry finds it necessary to seek advice and counsel from a dental specialist. In either case, the dental consulting practitioner providing the advice and consultation is entitled to an \$87 fee for each consulting service. The consulting practitioner may also be called upon to initiate diagnostic and/or therapeutic services.

To obtain reimbursement for services, the consulting practitioner's claim is supposed to identify the referring practitioner for the Medicaid recipient. From March 1, 2005 to March 31, 2010, New York's Medicaid program processed about 117,000 claims to reimburse 556 consulting practitioners more than \$10 million for dental consultation services.

Audit Scope and Methodology

We audited the Department of Health's Medicaid program and the eMedNY system to determine whether controls were adequate to ensure that dental consultation claims are appropriately billed and paid. Our audit covered the claims submitted with dates of service for the period March 1, 2005 through February 10, 2010.

To accomplish our objectives, we met with Department officials to confirm our understanding of the policies and controls relating to the payment of Medicaid dental consultations. We examined relevant Department policies, procedures, laws and regulations. We extracted all claims for dental consultations from the eMedNY data warehouse and identified the ten highest paid consulting practitioners for this service who did not bill with a referring practitioner's identification number on the claim. We pulled a random sample of 380 claims for these ten consulting practitioners, performed site visits, and reviewed supporting documentation.

We conducted our performance audit in accordance with 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 (some of whom have minority voting rights) to certain boards, commissions and public authorities. 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 formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of it. In their response, Department officials indicated that certain steps are planned or have been taken which address our report's recommendations. Our rejoinders to the Department's response are included in our State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Contributors to the Report

Major contributors to this report include Bob Wolf, Amanda Strait, Jacqueline Keesy-Holston, Trina Clarke, Steve Sossei and Brian Mason.

Audit Findings and Recommendations

Improper Claims for Dental Consultations

We obtained all paid Medicaid claims for dental consultation services for the period March 1, 2005 through February 10, 2010. From this population, we isolated those claims where there was no identification of a referring practitioner. We sorted these isolated claims to establish the ten consulting practitioners whose claims accounted for the most Medicaid reimbursement during the audit period. The resulting “top ten” practitioners billed New York’s Medicaid program for 33,700 dental consultation services totaling \$2.9 million. From the population of 33,700 such claims, we selected a random sample of 380 claims and verified through examination of recipient medical records whether there was adequate support for reimbursing for dental consultation services.

We found that the recipient medical records did not provide adequate support that 240 of the 380 claims should have been reimbursed because the records indicated there was no request for advice or opinion from the referring practitioner; no communication of the results back to the referring practitioner; and/or the available records indicated that the recipient was not visiting the consulting practitioner for a consultation service but rather the visit was for routine care. For 232 of the claims, the practitioner should have been reimbursed at a \$29 fee rather than \$87 for consultation services. For the remaining 8 claims, there were no records to support any claim for services and thus no payment should have been made. The overpayments from our sample of claims totaled \$14,152 and a statistical projection of these results (using a 90 percent confidence level) to the entire population of claims for the “top ten” providers results in an overpayment of at least \$1.2 million to as much as \$1.3 million. If the results of our review for the “top ten” provider claims holds true for the remaining un-sampled claims (totaling \$6.7 million) for dental consultations during our audit period, additional overpayments may total as much as \$2.6 million.

The remaining 140 claims from our sample of “top ten” provider claims did contain documentation evidencing communication between the referring provider and the consulting dental specialists. However, in 71 of the 140 claims, the communication with the referring provider appeared to indicate that, in actuality, a transfer of recipient care was taking place to permit the treatment of specific problems. These cases need to be evaluated by Department personnel to determine if these claims do or do not comply with the requirements to be billed as a dental consultation service. Had we included these additional 71 claims as errors in our projection, the amount of overpayments would increase substantially.

It appears, based on the medical records of the recipients, that there is considerable risk consulting practitioners were inappropriately obtaining more New York Medicaid reimbursement than they were entitled to because they up coded their claims from routine dental care service (reimbursed at \$29) to consultation service (reimbursed at \$87.) It is also possible that practitioners require reminding that consulting service fees do not apply when a patient is transferred and receives actual, routine, dental services.

Subsequent to the start of our audit, the Department initiated actions to limit the payment of improper claims for dental consultations. Specifically, the Department requested an evolution project to develop an eMedNY edit to require providers to list the National Provider Identifiers (NPIs) of the other physicians (that were consulted with) on claims for dental consultations. The edit will preclude payments for dental consultations to providers that do not include the NPI of the other physician on the claim. In addition, the Department established a process to identify the top billers of dental consultations and to hold their claims for further review by Department investigators. These claims will be denied if valid NPIs are missing or if the available documentation does not support the performance of a consultation. These added controls should help to limit inappropriate claims for dental consultations. However, additional actions will need to be taken to minimize such claims.

**Policies Used In
Other States**

We contacted 20 states to obtain data on the nature and extent of their reimbursement rates for oral evaluations and dental consultations. The results, as shown in the following table, identify that ten states do not reimburse for dental consultations; three states reimburse dental consultations, but at a fee that is less than what is reimbursed for a periodic oral evaluation; and seven states, like New York, reimburse more for dental consultations than for a periodic oral evaluation. Clearly, most states either do not reimburse for a dental consultation or do so at a fee that is less than a routine dental service. During our audit period, if New York State had reimbursed its dental consultations at a fee that was equal to the average (\$32) of the fees paid by the states in our survey that reimburse for dental consultations, New York's Medicaid program would have saved about \$6.3 million.

State	Amount Paid for Oral Evaluations	Amount Paid for Consultations
Alabama	\$18	Not Covered
California	\$15	Not Covered
Connecticut	\$35	\$18 adult/\$34 child
Florida	\$15	\$18
Kentucky	\$33	Not Covered
Maine	\$30	\$31
Maryland	\$29	\$48
Massachusetts	\$20	\$50
Michigan	\$15	\$29.24
Minnesota	\$19	\$24.47
Nebraska	\$17	Not Covered
New Hampshire	\$30	\$21.00
New Jersey	\$15	\$22 adult/\$90 child
North Carolina	\$26	Not Covered
Ohio	\$17	Not Covered
Pennsylvania	\$20	Not Covered
South Carolina	\$23	Not Covered
Texas	\$29	\$15
Vermont	\$20	Not Covered
Wisconsin	\$32	Not Covered
New York	\$29	\$87

Based on the results of our survey of other states, we believe that the Department should review its policies for paying claims for dental consultations and determine if adjustments are appropriate. Department officials agreed that they need to assess the propriety of payments for dental consultations. They also indicated that this matter would have to be addressed within the context of a broader review of related dental services and fees, which should include input from stakeholders and other effected parties.

- Recommendations**
1. Perform reviews of the top billers of dental consultations and request the Office of the Medicaid Inspector General to determine whether fraudulent billing took place. In addition, seek recovery where appropriate.

2. Remind dental practitioners that it is not appropriate to bill for a dental consultation when a patient is transferred to them for actual, routine dental service.
3. Review the reimbursement methodology for dental services.

Agency Comments



Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

September 17, 2010

Steven E. Sossei, CPA
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236

Dear Mr. Sossei:

Enclosed are the New York State Department of Health's comments on the Office of the State Comptroller's draft audit report 2010-S-12 on "Medicaid Payments for Dental Consultations."

Thank you for the opportunity to comment.

Sincerely,



James W. Clyne, Jr.
Executive Deputy Commissioner

Enclosure

cc: James Sheehan
Robert W. Reed
Donna Frescatore
Diane Christensen
Stephen Abbott
Jayanth V. Kumar, D.D.S.
Dennis Wendell
Ron Farrell
Mary Elwell
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Department of Health
Comments on the Office of the State Comptroller's
Draft Audit Report 2010-S-12 on
Medicaid Payments for Dental Consultations

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) draft audit report 2010-S-12 on "Medicaid Payments for Dental Consultations," including general comments followed by responses to the specific recommendations contained in the report.

General Comments:

The Department is unable to confirm whether the parameters used by OSC to define when a consultation has occurred, and is payable, adhere to the guidelines of customary dental practice. It is common and appropriate for the consulting practitioner to assume care of the patient for the specific course of treatment. Since the Medicaid program only provides payment for consultation to specialists, treatment for the specific problem or non-routine care is expected.

*
Comment
1

Department reviews of consultation billings utilize accepted national and professional standards as well as program-specific instructions:

- The American Dental Association (ADA) defines consultation as, "A patient encounter with a practitioner whose opinion or advice regarding evaluation and/or management of a specific problem; **may** (*emphasis added*) be requested by a practitioner or appropriate source. The consultation includes an oral evaluation. The consulted practitioner may initiate diagnostic and/or therapeutic services." (ADA's Dental Terminology Manual.)
- The Medicaid Dental Provider Manual further defines consultation as, "advice and counsel from an accredited specialist, which is provided at the request of the attending dentist in regard to the further management of the case by the attending dentist. A consultation also occurs when a health practitioner in another discipline (e.g., a physician) requests the advice and counsel of any dentist in regard to the referring practitioner's further management of the case."

*
Comment
2

Additionally, OSC developed its audit sample by randomly selecting 380 claims for dental consultations from amongst the claims submitted by the ten highest paid consulting practitioners for this service who did not include a referring practitioner's identification number on the claim. Based on the 380 claim sample, OSC estimates that the providers in the audit sample were overpaid between \$1.2 million and \$1.3 million. The Department requested, and OSC furnished, the working papers produced and the clinical records reviewed by the auditors. However, based on this OSC documentation, the Department is unable to determine whether or not the consultation billings in question were medically necessary, since clinical records were not provided for the claims which OSC asserts are overpayments. The Department has initiated requests directly to the providers for medical and clinical documentation, and will further evaluate the OSC findings when received.

*
Comment
3

Furthermore, OSC states, "If the results of our review for the 'top ten' provider claims holds true for the remaining un-sampled claims (totaling \$6.7 million)... additional overpayments may total as much as \$2.6 million." The Department's inability to confirm the underlying \$1.2 million to \$1.3 million in audit findings notwithstanding, this additional \$2.6 million figure is not statistically valid

* See State Comptroller's Comments, page 19.

and therefore should be removed from the report. OSC cannot legitimately predict whether or not the audit sample findings “holds true” for claims outside of the universe of claims from which the audit sample was drawn without performing appropriate statistical analysis and review that includes determining the sampling error and calculations of precision and confidence intervals.

*
Comment
4

Recommendation #1:

Perform reviews of the top billers of dental consultations and request the Office of the Medicaid Inspector General (OMIG) to determine whether fraudulent billing took place. In addition, seek recovery where appropriate.

Response #1:

Beginning February 2010, the Department routinely reviews the claims of the top billers of dental consultations, with 21 providers currently under review. To date, 1,298 claims have been denied, including 760 claims submitted by the providers identified by OSC and the balance by providers identified by the Department. In addition, the Department re-evaluates providers’ billing patterns monthly to determine which providers are reviewed, and makes referrals to the OMIG as warranted. Further, the OMIG plans on performing its own reviews of the top billers when resources and time permits, and will pursue recoveries accordingly.

*
Comment
5

Recommendation #2:

Remind dental practitioners that it is not appropriate to bill for a dental consultation when a patient is transferred to them for actual, routine dental service.

Response #2:

The Department will evaluate this recommendation once it has obtained and reviewed the clinical records discussed in the General Comments section above.

Recommendation #3:

Review the reimbursement methodology for dental services.

Response #3:

The Department will review the reimbursement methodology for dental services in context to beneficiaries’ needs and providing adequate access to dental care. Access to dental care, and especially to specialty care, is a major concern. As part of considering any policy changes, an assessment of the capacity of the health care system to provide pediatric and oral surgery services needs to be undertaken. Otherwise, patients may have to be transported to major medical centers to arrange for care, increasing program costs.

* See State Comptroller’s Comments, page 19.

State Comptroller's Comments

1. For the purposes of our audit, we applied the parameters prescribed by the Department's Medicaid Dental Provider Manual, and we made Department officials aware of this throughout the course of the audit. If Department officials believed that other "guidelines of customary dental practice" either superseded or supplemented existing Department guidance, they should have advised us so. However, they did not. Moreover, as noted subsequently in the Department's response, the Department identified 760 improper claims submitted by providers that we had identified previously as problematic. To identify these providers and their improper claims, the Department used ostensibly the same parameters as we did (including the claimant's failure to provide a valid NPI number for the physician who referred the recipient for medical assessment). Further, we did not question whether it is common or appropriate for a consulting physician to assume the care of a patient for a specific course of treatment.
2. We did not dispute this definition, and in fact, it is the definition we applied for the purposes of our audit, as detailed on page 9 of our report.
3. We provided the Department with whatever working papers and clinical records we had to support our audit observations. Moreover, for most of the claim payments we reviewed, our findings were predicated on the absence of the documentation required by the Department to classify a procedure as a "consultation." Consequently, there were little or no clinical (or other pertinent) records for us to provide to the Department regarding the 240 claims for consultations that we determined were ineligible for payment.
4. Our report does not state explicitly or otherwise imply that the additional \$2.6 million in potential overpayments is based on a statistically valid projection. As referenced by the Department, our report clearly states: "If the results of our review for the 'top ten' provider claims holds true for the remaining un-sampled claims (totaling \$6.7 million) for dental consultations during our audit period, additional overpayments may total as much as \$2.6 million." Moreover, we maintain that the risk of improper payments within the un-sampled population is high. Based on the Department's response, we conclude that at least 11 providers submitted 538 improper claims from the population of claims that were outside of our statistical sample.
5. We commend the Department for the actions taken to deny improper claims for consultations, including the 760 claims submitted by problematic providers identified by OSC. We believe the high incidence of improper claims for consultations (nearly 62 per provider) illustrates why such claims are high risk and should be subject to stronger controls, including Department reviews.