



Department of Health

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Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

March 21, 2022

Andrea Inman
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
110 State Street, 11th Floor
Albany, New York 12236

Dear Ms. Inman:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2020-S-35 entitled, "Department of Health-Medicaid Program: Improper Payments of Medicare Buy-in Premiums for Ineligible Recipients."

Please feel free to contact Sam Miller, Associate Commissioner for External Affairs at (518) 473-1124 with any questions.

Sincerely,

Kristin M. Proud
Acting Executive Deputy Commissioner

Enclosure

cc: Mr. Miller

Department of Health Comments on the Final Audit Report OSC 2020-S-35 entitled, “Medicaid Program: Improper Payments of Medicare Buy-In Premiums for Ineligible Recipients” by the Office of the State Comptroller

The following are the responses from the New York State Department of Health (the Department) Final Audit Report 2020-S-35 entitled, “Medicaid Program: Medicaid Program: Improper Payments of Medicare Buy-In Premiums for Ineligible Recipients” by the Office of the State Comptroller (OSC).

Recommendation #1:

Formally remind Local Districts to ensure all individuals enrolled in the Buy-in Program by Centers for Medicare & Medicaid Services (CMS) (retroactively and non-retroactively) have corresponding benefit eligibility periods in eMedNY.

Response #1:

The Department published two General Information System Messages (GIS) to the Local Department of Social Services (LDSS) in May 2021, which addresses the OSC recommendation. These GIS remind LDSS of the auto-close Medicare Buy-in process (GIS 21 MA/09) and the need to review and take appropriate action on the existing Third-Party Liability (TPL) Buy-in Deletion report TRMP0067 (GIS 21 MA/10). The GIS messages can be found on the DOH website:

https://health.ny.gov/health_care/medicaid/publications/docs/gis/21ma09.pdf

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Two additional GIS are scheduled to be finalized and released in March 2022. One reminds LDSS to use the correct closing code for deceased consumers and to verify the automated system closed the Buy-in. The other GIS reminds LDSS to end the Buy-in for consumers transitioning to the NY State of Health at renewal.

Recommendation #2:

Increase communication with and oversight of Local Districts to ensure timely closure of Buy-in Program cases. Take actions to:

- Formally remind Local Districts to promptly close ineligible individuals’ Buy-in Program coverage in eMedNY;
- Develop an information-sharing process between all Department stakeholders to ensure knowledge and use of all closing codes that the Department designates as auto-close codes to end Buy-in Program coverage and that when new closing codes are added or modified within Welfare Management System (WMS), the Department is notified promptly to evaluate the impact of the code changes on the Buy-in Program and, if appropriate, designate such closing codes as auto-close codes within eMedNY;
- Design and develop compensatory controls for timely identification and resolution of Buy-in Program cases not closed via the auto-close process; and

- Prevent improper premium payments for individuals who are currently not identified by the Department's monthly report, including individuals who were retroactively added to the Buy-in Program for months in which they did not have a benefit eligibility period.

Response #2:

The Department reminded LDSS in May 2021 to close ineligible individuals' Buy-in coverage promptly in eMedNY via GIS 21 MA/10. The Department also now receives Workload Managements (WLMs) from all LDSS and evaluates new codes to determine if the codes should be added to the auto close list to close the Buy-in.

If the LDSS caseworker does not use the correct code to auto close the Buy-in, then the case will appear on the LDSS TRMP0067 30-day, 60-day and 90-day deletion reports. The Department staff monitors these reports and sends reminders to LDSS to resolve cases that appear on them. It should be noted the Buy-in should not be closed for all cases that are auto-closed. For instance, an incarcerated consumer whose case is auto-closed should not have their Buy-in closed.

The Department is considering potential modifications to improve the process to allow for more automated closures of the Buy-in and improve the MOBIUS report (90 Day Deletion Report) to ensure all appropriate consumers are identified.

Recommendation #3:

Review the individuals identified by our audit who have active Buy-in Program coverage but do not have a benefit eligibility period in eMedNY, and promptly remove them from the Buy-in Program, as warranted.

Response #3:

The Department continues to review the individuals who do not have Medicaid eligibility in eMedNY and has developed a plan to close the Buy-in, as appropriate.

Recommendation #4:

Review and recover premiums pertaining to the \$372,716 paid for individuals identified as deceased, as warranted.

Response #4:

The Department continues to review all the individuals identified as deceased by OSC. As previously stated, in many instances, the data source and case documentation available during the audit disproves the date of death used by OSC. For example, in the two cases previously mentioned, OSC identified over \$10,000 in paid premiums by citing a date of death that is not supported by the State Online Query (SOLQ) and documentation in the consumer's case record.

[See OSC Comment #2 below.](#)

The Department has taken steps to ensure that the net amount (i.e., the premium amount less

the Federal share) of any inappropriate claims is refunded by CMS. The Department will continue to ensure appropriate refunds/credits to the billing file are made by CMS.

Recommendation #5:

Follow up with CMS to request payment relief on the Department's portion of \$13 million pertaining to the 3,439 cases of retroactive automatic additions of eligibility that exceeded the allowed two-year limit for retroactivity. Implement corresponding processes to identify these transactions and request payment relief from CMS going forward.

Response #5:

The Department requested equitable payment relief from CMS and is currently in the process of following their directive to contact the Social Security Administration (SSA) to facilitate the recovery process.

OSC Comment #1:

Our statement is correct and our understanding is the same as the Department's, as referenced on page 7 of our report: "While the Buy-in Program allows for recoveries of Medicare premiums back to the month of an individual's date of death, improper premium payments beyond two months (prior to the month in which the State requests termination of Buy-in Program coverage) for reasons other than death are not recoverable." The statement referenced in the Department's response is a synopsis of the rule.

Response to Comment #1:

The Department appreciates OSC's clarification that their understanding is the same as the Department's regarding retroactive credits for Buy-in payments.

OSC Comment #2:

We received death date information from the Department's Medicaid claims processing and payment system (eMedNY) and Veris (which uses SSA death data). In March 2021, five months before we issued the draft audit report, we gave the Department the audit findings pertaining to the individuals whom these sources identified as deceased. We met with the Department in May 2021 and requested information that officials stated they had to confirm or/and refute from eMedNY and Veris. Despite our request, the Department did not provide this information for our consideration.

Our report clearly states that the individuals were identified as deceased by eMedNY (the Department's system) and/or Veris, and since we do not have access to SOLQ, it is important for the Department to review its available information to make a final determination. Lastly, the majority of our findings were based on information in eMedNY; if the Department determines its system has death dates that do not match case records from the Local Districts, the Department needs to take action to correct information in its system.

Response to Comment #2:

The Department is reviewing Medicaid Data Warehouse (MDW) and SOLQ data to ensure eMedNY dates of death are accurate. The Department previously cited examples to illustrate some dates of death OSC obtained from Veris were widely inconsistent with available electronic

data sources or documentation in the consumer's case record. As previously discussed with OSC, the Department is not able to share SOLQ data with OSC per the current data sharing agreement with the SSA. However, the Department maintains OSC should have questioned the validity of dates of death for the years 1945 and 1960, regardless of the source, given the available documentation in the case record (e.g., the consumer's date of birth and death certificates with the correct date of death).

OSC Comment #3 (Refers to Response #1):

We commend the Department for taking prompt action to communicate with the Local Districts. We also encourage the Department to issue guidance related to the Local Districts' role in establishing benefit eligibility periods when CMS automatically adds individuals to the Buy-in Program.

Response to Comment #3:

The Department will evaluate the necessity of issuing further guidance to LDSS regarding their role in establishing benefit eligibility periods when CMS automatically adds individuals to the Buy-in program.

OSC Comment #4 (Refers to Response #2):

While some incarcerated individuals may still be eligible for the Buy-in Program, there are specific auto-close codes for certain incarcerated individuals whose Buy-in Program coverage should be terminated. During the audit, we discussed these specific auto-close codes with the Department, and Department officials agreed these codes should terminate the individual's Buy-in Program coverage when their benefit eligibility period ends.

Response to Comment #4:

The Department agrees, in certain circumstances, some incarcerated individuals should have their Buy-in coverage terminated when the appropriate auto-close code is used by the LDSS caseworker. However, there are times when the Buy-in should not be closed and in those circumstances an auto-close code is not appropriate. The Department is working with LDSS staff to ensure they understand when an auto-close is appropriate and when it is not.

OSC Comment #5 (Refers to Response #4):

See State Comptroller's Comment on page 19. Additionally, the Department should recover the net amount of any inappropriate claims from CMS, not refund CMS.

Response to Comment #5:

As previously stated, the Department is in the process of reviewing MDW and SOLQ data to ensure eMedNY dates of death are accurate. The Department previously cited examples to illustrate some dates of death OSC obtained from Veris were widely inconsistent with available electronic data sources or documentation in the consumer's case record. As previously discussed with OSC, the Department is not able to share SOLQ data with OSC per the current data sharing agreement with the SSA. However, the Department maintains OSC should have questioned the validity of dates of death for the years 1945 and 1960, regardless of the source, given the available documentation in the case record (e.g., the consumer's date of birth and death certificates with the correct date of death).