

KATHY HOCHUL Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS Executive Deputy Commissioner

November 13, 2024

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 Andrea 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 2023-S-9 entitled, "Medicaid Program: Claims Processing Activity April 1, 2023 Through September 30, 2023."

Please feel free to contact the Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

Johanne E. Morne, M.S.

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Executive Deputy Commissioner

Enclosures

cc: Melissa Fiore

DOH Audit

Department of Health Comments on the Office of the State Comptroller's Final Audit Report 2023-S-9 entitled, "Medicaid Program: Claims Processing Activity April 1, 2023 Through September 30, 2023"

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2023-S-9 entitled, "Medicaid Program: Claims Processing Activity April 1, 2023 Through September 30, 2023." Included in the Department's response is the Office of the Medicaid Inspector General's (OMIG) replies to applicable recommendations. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with the laws and regulations.

General Comment

The audit concluded on the top of page 7 that "eMedNY reasonably ensured Medicaid claims were submitted by approved providers, were processed in accordance with requirements, and resulted in correct payments to providers."

The following are responses to the audit recommendations:

Recommendation #1

Review the \$9.3 million in overpayments, disenroll the members from managed care plans, and make recoveries, as appropriate.

Response #1

OMIG continuously performs audits of comprehensive third-party health insurance, to ensure Medicaid is the payor of last resort. OMIG will perform its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

The Department reviewed cases identified by OSC which were not included in the New York Medicaid Choice lists and as of July 2024, the Department instituted a more refined filtering methodology which has improved accuracy. The Department is confident this refined process will result in not only timelier, but more accurate, processing of the monthly data. The Department will continue to look for opportunities to improve accuracy and timeliness.

Recommendation #2

Review the remaining \$885,145 in overpayments and make recoveries, as appropriate.

Response #2

OMIG is performing analysis on the OSC-identified inpatient claims. OMIG will perform its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete, confirm the accuracy of the claims detail for use in OMIG audit activities, and determine those

overpayments requiring recovery. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process. OMIG has recovered more than \$121,000 in overpayments made between 2019 and 2022 that were identified by OSC as potential overpayments in previous claims processing activity audits.

Recommendation #3

Review the remaining \$17,081 in overpayments and make recoveries, as appropriate.

Response #3

OMIG continuously performs audits of supplemental maternity capitation payments to Managed Care Organizations. OMIG will perform its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process. OMIG has recovered more than \$875,000 in overpayments made between 2019 and 2022 that were identified by OSC as potential overpayments in previous claims processing activity audits.

Recommendation #4

Review the remaining \$370,838 (\$194,865 + \$175,767 + \$206) in overpayments and make recoveries, as appropriate.

Response #4

OMIG continuously performs audits of pharmacy, clinic, and practitioner claims. OMIG will perform its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process. OMIG has recovered more than \$485,000 in overpayments made between 2019 and 2022 that were identified by OSC as potential overpayments in previous claims processing activity audits.

Recommendation #5

Review the remaining \$7,427 in overpayments and make recoveries, as appropriate.

Response #5

OMIG continuously performs audits of other insurance claims, to ensure Medicaid is the payor of last resort. OMIG will perform its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process. OMIG has recovered more than \$549,000 in overpayments made between 2019 and 2022 that were identified by OSC as potential overpayments in previous claims processing activity audits.

Recommendation #6

Review the remaining \$75,306 in overpayments and make recoveries, as appropriate.

Response #6

OMIG continuously performs audits of incarcerated individuals. OMIG conducts an annual outreach to county jails across New York State to identify incarcerated Medicaid managed care enrollees whose incarceration may not have otherwise been reported. OMIG will perform its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #7

Enhance processes, especially communication with local jails, to identify all incarcerated Medicaid recipients.

Response #7

The Department is open to this recommendation as we acknowledge there is minimal direct communication between the Department and the 62 local jails throughout New York State. However, meaningful improvements to communication and coordination will be challenging.

Local jails are operated by individual counties throughout the State, and we are unaware of any central repository for booking information. Only a small percentage of those that are incarcerated in a local jail meet criteria that impacts their Medicaid eligibility status. The vast majority of individuals are only housed for short periods, held pending charges or held for parole violations. None of these scenarios meet the definition of incarcerated that would require Medicaid to react by suspending coverage and disenrolling from managed care. According to data on https://www.criminaljustice.ny.gov/crimnet/ojsa/jail population.pdf the statewide population of those residing in local jail and already sentenced averages less than 3,000 in any month.

Establishing relationships and the data exchange necessary to identify all incarcerated Medicaid recipients in local jails would require significant work for jail staff in most of New York's counties, as well as Department and Information Technology Services staff. All of these entities are operating with limited resources.

The Department will continue to work with the Federal Centers for Medicare and Medicaid Services to develop waiver flexibilities allowing for expanded coverage of incarcerated persons prior to their release from institutions. If approved, communication and data sharing between the Department and county jails and prisons will improve and allow for streamlined Medicaid coverage suspensions as appropriate.

Recommendation #8

Ensure providers who violate Medicaid or other health insurance program provisions are subject to appropriate and timely sanctions, including removal from the Medicaid program.

Response #8

OMIG sanctions individuals based on findings of unacceptable practices discovered during investigations or audits of providers, as well as taking derivative actions that originate from other agencies including Office of Professional Discipline, Office of Professional Medical Conduct, US Health and Human Services - Office of Inspector General, and NYS Attorney General's Medicaid Fraud Control Unit. OMIG also performs searches of the internet to identify providers that have been arrested or convicted of health care related crimes, determines if they are participating in the Medicaid program and appropriately sanctions them. OMIG excludes providers from the Medicaid program under the provisions of 18 NYCRR § 515.3 (Sanctions for Unacceptable Practices), 18 NYCRR § 515.7 (Immediate Sanctions), and/or 18 NYCRR § 515.8 (Mandatory Exclusions). OMIG maintains an exclusion list that is updated daily on the OMIG website, which contains both enrolled providers and non-enrolled persons/entities.