



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Acting Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

March 26, 2015

Mr. Brian Mason  
Assistant Comptroller  
New York State Office of the State Comptroller  
110 State Street, 10<sup>th</sup> Floor  
Albany, New York 12236

Dear Mr. Mason:

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 2013-S-35 entitled, "Medicaid Overpayments for Certain Medicare Part C Claims."

Please feel free to contact Amy Nickson, Office of Governmental and External Affairs at (518) 474-2011 with any questions.

Sincerely,

Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

Enclosure

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Final Audit Report 2013-S-35 entitled  
Medicaid Overpayments for Certain Medicare Part C Claims**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2013-S-35 entitled, "Medicaid Overpayments for Certain Medicare Part C Claims."

**Background**

New York State is a national leader in its oversight of the Medicaid Program. Through the efforts of the Department and the Office of the Medicaid Inspector General (OMIG), over the last five years, New York State alone accounted for 54.9 percent of the national total of fraud, waste, and abuse recoveries. These results reflect a trend of increased productivity and enforcement. Over the last three calendar years, the administration's Medicaid enforcement efforts have recovered over \$1.73 billion, a 34 percent increase over the prior three-year period.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality care for its Medicaid members. Since 2011, Medicaid spending has remained under the Global Spending Cap, while at the same time providing health care coverage to an additional 840,000 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to \$7,929 in 2013, consistent with levels from a decade ago.

**Recommendation #1**

Review and recover the remaining overpayments totaling \$38,337.

**Response #1**

The OMIG's Recovery Audit Contractor (RAC) has recovered \$33,457 to date.

**Recommendation #2**

Formally instruct providers, including those identified in this report, to bill Medicare Part C claims in accordance with existing requirements to ensure Medicaid claims are accurately billed. In particular, instruct providers that when primary payers make claim adjustments, they must make the appropriate corresponding Medicaid claim adjustments.

**Response #2**

The Department's eMedNY Customer Relations Outreach Unit has updated an article from the February 2014 Medicaid Update to include the changes to the language that addresses the concerns of OSC regarding the instruction to providers to make appropriate corresponding Medicaid claim adjustment when primary payers make claim adjustments. The revised Medicaid Update was issued in December 2014 and, therefore, this recommendation is now fully implemented.

**Recommendation #3**

Formally assess the 5,446 higher risk claims totaling \$506,239 that we did not examine in detail. Determine if overpayments were made that warrant recovery.

**Response #3**

The OMIG's RAC reviewed the higher risk claims. After review, the RAC determined there were 1,292 claims with possible overpayments, and the remaining claims were paid properly. The RAC will recover the overpayments as appropriate.