



## Department of Health

**ANDREW M. CUOMO**  
Governor

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

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

September 12, 2017

Ms. 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 2013-S-4 entitled, "Medicaid Payments for Pharmacy Claims – Joia Pharmacy and a Related Prescriber."

Please feel free to contact Estibaliz Alonso, Acting Assistant Commissioner, Office of Governmental and External Affairs, at 518-473-1124 with any questions.

Sincerely,

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

Enclosure

cc: Ms. Alonso

**Department of Health Comments on the  
Office of the State Comptroller's  
Final Audit Report 2013-S-4,  
Medicaid Payments for Pharmacy Claims – Joia Pharmacy and a  
Related Prescriber**

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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-4 entitled, "Medicaid Payments for Pharmacy Claims – Joia Pharmacy and a Related Prescriber."

**Background**

New York State (NYS) is a national leader in its oversight of the Medicaid Program. The Office of the Medicaid Inspector General (OMIG) conducts on-going audits of the Medicaid program and managed care plans. The Department and OMIG will continue to focus on achieving improvements to the Medicaid program and aggressively fighting fraud, waste and abuse.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality of 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 1,475,319 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient decreased to \$8,305 in 2015, consistent with levels from a decade ago.

**Recommendation #1:**

Review the Medicaid payments made to Joia and recover any improper payments, as warranted.

**Recommendation #2:**

Formally review and assess the factors that led to Joia's submission of the improper claims. Take actions, as warranted, to remediate any improper policies and practices that are identified. Such a review should include determining whether the pharmacy – under the new ownership – and its employees have corrected any such deficiencies.

**Recommendation #3:**

Follow up on all other matters identified in this report, including having a Department physician review the issues involving the Doctor, and take appropriate action, as warranted.

**Recommendation #4:**

Assess the appropriateness of the providers' (pharmacists and physicians) future participation in the Medicaid program. This assessment should also address the propriety of referring any of the providers to SED's Office of the Professions.

**Response to Recommendations #1 through #4**

OMIG's investigation of this provider is on-going. Upon completion of the investigation, OMIG will take appropriate actions. Pharmacy law governs omitting to label drugs, or labeling them wrongly & adulterating, misbranding & substituting. These types of edits cannot be systematically enforced as defined in Article 137 of the New York State Education Law. Medicaid has claims

edits and prior authorization processes that promote high quality pharmacy services in conformance with professional standards. However, some of the deficiencies identified by OSC cannot be identified or prevented by Medicaid claim edits.