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COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF HEALTH

**PHYSICAL THERAPY
SERVICES PROVIDED BY
CLINICS TO MEDICAID
RECIPIENTS**

Report 2006-S-63

AUDIT OBJECTIVE

Our objective was to determine whether licensed physical therapists were providing services to Medicaid recipients and whether clinics provided sufficient and detailed information on the claims to determine licensed physical therapists provided the services.

AUDIT RESULTS - SUMMARY

During the two-year period ended March 31, 2006, Medicaid processed 887,715 clinic claims (totaling over \$87.5 million) for treatments including physical therapy which did not have sufficient and detailed information to determine if licensed physical therapists provided the services claimed. The problems we identified with these 887,715 claims are summarized, as follows:

- 127 unregistered physical therapists were listed as the servicing providers on 792,470 claims (totaling \$77.8 million) that included physical therapy services submitted by 47 clinics;
- 107 physical therapy assistants were listed as the servicing providers on 52,114 claims (totaling \$5.2 million) that included physical therapy services submitted by 31 clinics;
- No physical therapist was listed as the servicing provider on 42,107 claims (totaling \$4.4 million) that included physical therapy services submitted by 100 clinics; and

- 3 physical therapists with inactive license numbers were listed as the servicing providers on 1,024 claims (totaling \$127,000) that included physical therapy services submitted by 3 clinics.

Our review of patient records for 140 of these claims at seven clinics determined licensed physical therapists actually did provide services to Medicaid recipients, even though this information was inaccurate or missing from the claims submitted to Medicaid. Therefore, it may be unlikely that any disallowance or recovery is in order as a result of our audit. However, system controls need to be improved to address the risk for inappropriate payments in the future.

Our report contains five recommendations to improve Medicaid claims processing controls. Department officials generally agreed with our recommendations and have taken steps to implement changes.

This report, dated June 5, 2007, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Department of Health (Department) administers the State's medical assistance program (Medicaid), which was established under Title XIX of the federal Social Security Act to provide needy people with medical assistance. In New York State, this program is funded jointly by the federal, State, and local governments. Its management information and claims processing functions are handled through the State's eMedNY system, which the Department implemented on March 24, 2005.

There are more than 22,000 licensed physical therapists and certified physical therapy assistants in New York State who provide various types of physical therapy to the residents of the State. The State Education Department licenses physical therapists and certifies physical therapy assistants. According to Article 136, Section 6732 of the State Education Law, only a person licensed or otherwise authorized under Article 136 shall practice physical therapy or use the title physical therapist. According to Section 6734 of Article 136, a licensed professional must re-register every three years. At registration, a licensee can choose to suspend registration, which inactivates the license. If a licensee has not re-registered within the three-year time frame, or if a registration has lapsed without explanation, the licensee's status is listed as unregistered. According to State Education Department officials, a licensee may re-activate a license at any time. According to Article 136, Section 6738, physical therapy assistants must be supervised by an on-site licensed physical therapist.

Every day, the Department receives license updates from the State Education Department and changes the eMedNY provider files accordingly. The eMedNY system has edits in place that serve as controls to assess the

accuracy of the information on claims and to determine whether to pay, suspend for further review, or deny claim payment. Some of the edits related to the processing of physical therapy claims include: Edit 00263 - Servicing Provider ID or License Number And Profession Code Are Required (Edit 263); Edit 01238 - Service License Not on NYS License File (Edit 1238); and Edit 01244 - Service Provider Not in Active Status on Date of Service (Edit 1244).

AUDIT FINDINGS AND RECOMMENDATIONS

Inactive or Unregistered Physical Therapists

According to the New York State Health Codes Rules and Regulations, Title 18, Section 505.11, only qualified professionals employed by or under contract with a clinic may provide care and bill Medicaid for physical therapy services. Section 505.11 defines qualified professionals as physical therapists who are licensed according to State Education Law and are currently registered with the State Education Department.

During our two-year audit period, 127 unregistered physical therapists were listed as the servicing providers on 792,470 claims (totaling \$77.8 million) submitted by 47 clinics; and 3 physical therapists with inactive license numbers were listed as the servicing providers on 1,024 claims (totaling \$127,000) submitted by 3 clinics. Although the providers' licenses were either inactive or unregistered, Medicaid paid these claims because the Department's Edits 1244 and 1238 were not functioning effectively. Edit 1244, designed to check the status of a physical therapy license number reported on a claim, approved claims for payment even though the provider's license was inactive or unregistered. The Department had set the edit "to pay," meaning the eMedNY system paid

the claim even though the claim should not have been paid based on the information on the claim and according to the logic of the edit. According to Department officials, Edit 1244 is not used to make payment decisions. Rather, Edit 1244 is used by the Office of Medicaid Inspector General as a monitoring tool to review the number of claims that were subject to the edit during processing of claims. Edit 1238, designed to verify the license number listed on a claim matches a license number on the eMedNY provider files, does not check the status of the license number used on the claim. The Department should assess the purpose of Edits 1244 and 1238 and use the edits as controls to not pay those clinic claims where the servicing license number listed on the claim is inactive or unregistered.

Recommendation

1. Assess the purpose of Edits 1244 and 1238 and use the edits as controls to make payment decisions, such as not paying those clinic claims where the servicing license number listed on the claim is inactive or unregistered.

Qualified Physical Therapists

The Department requires all providers to accurately identify the servicing provider on their Medicaid claims. The servicing provider is the provider who actually provided the medical service for which payment is sought. In the case of a physical therapy services, a licensed physical therapist would be the servicing provider stated on the Medicaid claim. A physical therapy assistant should not be listed as the servicing provider.

During our two-year audit period, 107 physical therapy assistants were listed as the servicing providers on 52,114 (totaling \$5.2 million) claims submitted by 31 clinics.

Medicaid paid these claims even though the certified physical therapy assistants were not licensed physical therapists because Edit 1238 is not able to distinguish between a licensed physical therapist and a certified physical therapy assistant. When Edit 1238 compares the servicing provider number recorded on the claim with the eMedNY provider files, an exception will not occur when a physical therapy assistant's certificate number is used on the claim. The certificate number is the same length and format as a physical therapist's license number and Edit 1238 cannot distinguish between a licensed professional and a certified assistant. Edit 1238 concludes the assistant is a licensed professional. Physical therapy assistants have a profession code on the eMedNY provider files that could be used to distinguish assistants from licensed therapists. The Department should design an edit, or modify edit 1238, to verify that both the license number and the profession code of the servicing provider are those of a licensed physical therapist qualified to perform the physical therapy services listed on the claim.

Recommendation

2. Design an edit, or modify the logic for edit 1238, to verify the combination of license number and profession code is that of a licensed professional qualified to perform the physical therapy services listed on the claim.

Servicing Provider on Claim

According to Department's Medicaid billing guidelines, the servicing provider must be listed on the claim when billing Medicaid. The Department reminded providers of this requirement in the June 2002 *Medicaid Update*, the Department's official publication for Medicaid providers.

During our two-year audit period, 100 clinics submitted 42,107 claims (totaling \$4.4 million) for physical therapy services without a physical therapist listed as the servicing provider. Our review of 99 patient records at four clinics determined licensed physical therapists actually did provide services to Medicaid recipients, even though this information was inaccurate or missing from the claims submitted to Medicaid. Therefore, it may be unlikely that any disallowance or recovery is in order as a result of our audit.

Officials at the clinics we visited said they were not aware of the Department's requirement that the servicing provider be listed on the claim form when billing Medicaid for physical therapy services. We recommend system controls be improved to address the risk for inappropriate payments in the future.

We determined clinic claims are not processed through eMedNY's Edit 263, designed to check claims for the presence of a servicing provider license number and profession code. The Department had set the edit "to pay," for clinics, meaning the eMedNY system paid the clinic claim even though the servicing provider information for physical therapy services was missing from the clinic claim. The Department should either modify Edit 263 or create a new edit for clinic claims, so that all claims requiring servicing provider identification numbers or license numbers are checked when processed to ensure Medicaid pays only qualified and licensed providers for services provided to Medicaid recipients. In addition, the Department should follow-up with clinic providers to determine if physical therapy services were provided by licensed physical therapists and remind clinic providers of the requirement to include the servicing provider when submitting claims to Medicaid for

payment of physical therapy services provided to Medicaid recipients.

Recommendations

3. Design an edit, or modify the logic for Edit 263, to verify servicing provider license numbers are listed on clinic claims for physical therapy services.
4. Follow-up with clinic providers to determine if physical therapy services were provided by licensed physical therapists.
5. Instruct the clinic providers to include the licensed physical therapist as the servicing provider when submitting clinic claims to Medicaid for payment of physical therapy services provided to Medicaid recipients.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited selected Medicaid claims paid to clinic providers that included physical therapy services during the two year period ended March 31, 2006. To accomplish our audit objectives, we reviewed applicable sections of federal and State laws and regulations; we interviewed Department and State Education Department officials; we reviewed physical therapy claims submitted by clinic providers and processed by eMedNY; we reviewed the Department's process for updating its eMedNY provider files with license information from the State Education Department; we examined the Department's relevant payment policies and procedures; and we visited seven clinics to review a sample of 20 medical records at each clinic. These clinics were selected because of the high number of physical therapy procedures

billed during the two-year audit period and because the claims contained inactive or unregistered license numbers, did not list a servicing provider, or listed a physical therapy assistant as the servicing provider. Our review included physical therapy services provided at various types of clinics including diagnostic and treatment centers, hospital based clinics, day hospital clinics, and free standing clinics. We excluded school supportive health services program clinics and early intervention clinics from this review. When billing Medicaid for physical therapy services, clinics bill using an all-inclusive rate code that covers all the services provided to the recipient during a clinic visit, including physical therapy services. Because physical therapy services were not billed using a separate rate code, we were not able to isolate the payments associated with the weaknesses identified in this report.

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, several of which are performed by the Office of Operations. 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 management 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 comment. We considered their comments in preparing this report. A copy of the Department's response is included as Appendix A.

Within 90 days of the release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department 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 Steven Sossei, Brian Mason, Sheila Emminger, Don Paupini, Steve Goss, Erika Akers, Chris Morris, Holly Thornton, and Emily Wood.

APPENDIX A - AUDITEE RESPONSE



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

Richard F. Daines, M.D.
Commissioner

April 6, 2007

Sheila A. Emminger, Audit Manager
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Ms. Emminger:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's (OSC) draft audit report on "Physical Therapy Services Provided By Clinics to Medicaid Recipients" (2006-S-63).

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'BJW', with a long horizontal line extending to the right.

Brian J. Wing
Interim Executive Deputy Commissioner

Enclosure

cc: Ms. Bachrach
Mr. Charbonneau
Mr. Griffin
Mr. Howe
Mr. Hussar
Ms. Kerker
Ms. Napoli
Mr. Reed
Mr. Seward

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report
2006-S-63 on
"Physical Therapy Services Provided
By Clinics to Medicaid Recipients"**

The following are the Department of Health's (DOH) comments in response to the Office of the State Comptroller's (OSC) draft audit report on "Physical Therapy Services Provided By Clinics to Medicaid Recipients" (2006-S-63).

Recommendation #1:

Assess the purpose of Edits 1244 and 1238 and use the edits as controls to make payment decisions, such as not paying those clinic claims where the servicing license number listed on the claim is inactive or unregistered.

Response #1:

The purpose of edit 1238 is to verify that the license number is found on the Education Department's license file. This edit is working properly and claims are denied when the license is not included in the license file. Edit 1244 is designed to check the status of the service provider's license. This edit is currently not set to deny for any claim type. Computer Sciences Corporation (CSC) is nearing the completion of a project to correct and update license information on the license master file before this edit is activated.

Recommendation #2:

Design an edit, or modify the logic for edit 1238, to verify the combination of license number and profession code is that of a licensed professional qualified to perform the physical therapy services listed on the claim.

Response #2:

The Office of Health Insurance Programs (OHIP) will work with the Office of the Medicaid Inspector General (OMIG) and CSC to develop an edit so that a clinic claim will only be paid if the correct combination of license number and professional code for the claimed physical therapy services is provided.

Recommendation #3:

Design an edit, or modify the logic for Edit 263, to verify servicing provider license numbers are listed on clinic claims for physical therapy services.

Response #3:

Legacy edits did perform this function, but were deleted during Phase II implementation. A project has been created to restore them.

Recommendation #4:

Follow-up with clinic providers to determine if physical therapy services were provided by licensed physical therapists.

Response #4:

OMIG will review medical records for a sample of physical therapy clinic claims where a physical therapist (PT) is not indicated as the servicing provider to determine whether services were provided by a licensed PT. Sample claims will be selected from the clinics identified in the report.

OHIP will work with the OMIG to develop an ongoing audit mechanism to assure that physical therapy services in licensed Article 28 clinics are provided by licensed physical therapists.

Recommendation #5:

Instruct the clinic providers to include the licensed physical therapist as the servicing provider when submitting clinic claims to Medicaid for payment of physical therapy services provided to Medicaid recipients.

Response #5:

OHIP will publish a Medicaid Update article to restate Medicaid policy that physical therapy must be provided one-on-one by a licensed PT with a Medicaid recipient. In addition, the licensed PT is to be listed on all clinic claims to receive payment for physical therapy services.