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**Thomas P. DiNapoli  
COMPTROLLER**



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**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

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**DEPARTMENT OF HEALTH**

**MEDICAID PAYMENTS TO  
OFFICE OF MENTAL  
HEALTH AND OFFICE OF  
MENTAL RETARDATION  
AND DEVELOPMENTAL  
DISABILITIES PROVIDERS  
WHILE RECIPIENTS WERE  
HOSPITALIZED**

**Report 2006-S-89**

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## AUDIT OBJECTIVE

The objective of our audit was to determine if New York State's medical assistance program (Medicaid) made inappropriate payments to Office of Mental Health (OMH) and Office of Mental Retardation and Developmental Disabilities (OMRDD) home care providers while recipients were hospitalized.

## AUDIT RESULTS - SUMMARY

During our five year audit period ended February 28, 2007, we identified over \$2.4 million in inappropriate Medicaid payments to OMH and OMRDD home care providers for recipients who were hospitalized. Some of these payments are inappropriate because Medicaid does not cover the services when they are rendered to recipients who are hospitalized. Other payments were inappropriate because the recipients were not at the OMH or OMRDD facilities the required number of days to qualify for payment for services provided. In making our determinations we examined about \$26 million of Medicaid claims paid to OMH and about \$29 million of Medicaid claims paid to OMRDD.

Our report contains four recommendations to recover inappropriate Medicaid payments and improve controls over Medicaid payments to OMH and OMRDD providers. Department of Health officials generally agreed with our recommendations and indicated that they will take steps to implement them.

This report, dated December 28, 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

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Albany, NY 12236

## BACKGROUND

The Department of Health (Department) administers the Medicaid program which was established under Title XIX of the federal Social Security Act to provide needy people with medical assistance. The program also provides medical assistance to eligible clients who are under the jurisdiction of OMH and OMRDD. Medicaid 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.

OMH promotes the mental health of the citizens of New York with a particular focus on providing hope and recovery for adults with serious mental illness and children with serious emotional disturbances. To accomplish this OMH operates psychiatric centers across the State, and also regulates, certifies and oversees more than 2,500 programs, which are operated by local governments and nonprofit agencies. These programs include various inpatient and outpatient programs, emergency services, community support, and residential and family care programs.

OMRDD coordinates and provides services for people with developmental disabilities and their families and conducts research into the causes and prevention of developmental disabilities. OMRDD strives to improve the quality of life of the individuals and their families through the provision of quality, cost-effective housing, employment and family support services and to establish accountability for carrying out the policies of the state with regard to such persons.

OMH and OMRDD home care providers can bill Medicaid for a variety of services provided to qualified recipients. For example, OMH and OMRDD providers can bill Medicaid for monthly residential services rendered to recipients as long as the recipients had been at the facility for a specified period of time during the month. OMH and OMRDD providers can also bill Medicaid for case management services. However, providers are not entitled to reimbursement for certain case management services when these services are provided to hospitalized recipients.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

### *Medicaid Payments to OMH and OMRDD Providers*

During the five year period ended February 28, 2007, Medicaid overpaid OMH and OMRDD home care providers more than \$2.4 million for claims inappropriately billed for hospitalized recipients. OMH and OMRDD accounted for \$1,966,035 and \$517,059, respectively, of the inappropriate payments. Overpayments related to residential services provided when the Medicaid recipient had not been in a residential facility for a sufficient period of time to be eligible for service reimbursement totaled \$996,805 for OMH and \$333,520 for OMRDD. Overpayments for case management services provided when a Medicaid recipient was hospitalized totaled \$969,230 for OMH and \$183,539 for OMRDD. In making our determinations, we examined about \$26 million of Medicaid claims paid to OMH and about \$29 million of Medicaid claims to OMRDD.

Although OMH and OMRDD go to great lengths to educate their providers on appropriate billing practices, we believe these

overpayments occurred because the billing practices are very complex and difficult to understand. The billing nuances are so complex, the providers often misinterpret them. For example, we visited an OMH provider that billed Medicaid for services that were only eligible for reimbursement when recipients were living in a community setting. However, these services were actually provided to recipients who were in a hospital. The provider's billing staff told us that they thought that these billings were appropriate, although OMH's guidelines do not allow such billings. When we discussed the inappropriate OMRDD billings with OMRDD officials, they also attributed their questionable billings to the complex billing guidelines, misunderstandings and Medicaid billing complexities.

The Department should assist OMH and OMRDD officials in instructing their providers on appropriate Medicaid billing practices that address the specific practices that caused the overpayments we identified.

Overpayments also occurred because OMH does not have any post payment review process to identify potentially inappropriate claims. For example, one OMH provider we visited billed Medicaid for services when the recipients were not in the OMH facilities for the required number of days to qualify for payment. A basic review process should have identified and corrected this problem.

OMRDD has a post payment review process, which it continues to evaluate and enhance, although this process is not as comprehensive as it could be. About \$242,490 of the overpayments we identified for OMRDD providers would not be detected by this process. The remaining \$274,569 would have been detected by OMRDD had sufficient time elapsed to allow its system to work.

The Department should assist OMH in designing a post payment review process to detect and recover these inappropriate payments. The Department should assist OMRDD in enhancing its review processes to identify problem providers and to prevent future inappropriate payments.

### **Recommendations**

1. Review the \$2.4 million of inappropriately billed claims for OMH and OMRDD providers and recover overpayments where appropriate.
2. Assist OMH and OMRDD officials in instructing their home care providers on the appropriate way to bill Medicaid for services provided to hospitalized recipients.
3. Assist OMH officials in implementing a process to identify potentially inappropriate Medicaid payments.
4. Assist OMRDD officials in enhancing their processes for identifying potentially inappropriate Medicaid payments for hospitalized recipients.

### **AUDIT SCOPE AND METHODOLOGY**

We conducted our audit according to generally accepted government auditing standards. We audited Medicaid claims submitted by OMH and OMR home care providers and processed by the Department during the five year period ended February 28, 2007. To accomplish our audit objective, we extracted questionable claims from the Medicaid payment file and verified the accuracy of the payments. We interviewed Department officials, visited selected home care providers to review medical records and other supporting documentation, reviewed

applicable sections of federal and State laws and regulations, and examined the Department's relevant payment policies and procedures.

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. 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 to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these 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. Department officials generally agreed with our recommendations and indicated actions planned or taken to implement them. We considered their comments in preparing this report. A complete copy of the Department's response is included as Appendix A.

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Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department 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 the report include Sheila Emminger, Warren Fitzgerald, Ronald Pisani, Dennis Buckley, and Christopher Morris.

APPENDIX A - AUDITEE RESPONSE



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

Richard F. Daines, M.D.  
*Commissioner*

Wendy E. Saunders  
*Chief of Staff*

November 28, 2007

Steven E. Sossei  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Mr. Sossei:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's (OSC) draft audit report 2006-S-89 on "Medicaid Payments to Office of Mental Health and Office of Mental Retardation and Developmental Disabilities Providers While Recipients Were Hospitalized."

Thank you for the opportunity to comment.

Sincerely,



Wendy E. Saunders  
Chief of Staff

Enclosure

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cc: Stephen Abbott  
Deborah Bachrach  
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Ronald Farrell  
Randall Griffin  
Dr. Michael Hogan  
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Diana Jones Ritter  
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**Department of Health  
Comments on the  
Office of the State Comptroller's  
Draft Audit Report 2006-S-89 on  
“Medicaid Payments to Office of Mental Health and  
Office of Mental Retardation and Developmental Disabilities  
Providers While Recipients Were Hospitalized”**

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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) draft audit report 2006-S-89 on "Medicaid Payments to Office of Mental Health and Office of Mental Retardation and Developmental Disabilities Providers While Recipients Were Hospitalized."

**Recommendation #1:**

Review the \$2.4 million of inappropriate billed claims for OMH and OMRDD providers and recover overpayments where appropriate.

**Response #1:**

The Office of the Medicaid Inspector General (OMIG) will review the \$2.4 million in potential overpayments to Office of Mental Health (OMH) and Office of Mental Retardation and Developmental Disabilities (OMRDD) providers and make recoveries where appropriate.

**Recommendation #2:**

Assist OMH and OMRDD officials in instructing their home care providers on the appropriate way to bill Medicaid for services provided to hospitalized recipients.

**Response #2:**

The Department will publish a Medicaid Update article reinforcing the appropriate billing guidelines for OMH and OMRDD regulated providers furnishing services to hospitalized enrollees.

The report states the auditors' belief that OMH and OMRDD overpayments occurred "because the billing practices are very complex and difficult to understand", while recognizing, "OHM and OMRDD go to great lengths to educate their providers on appropriate billing practices." It is relevant to note that the relatively small value of the findings relative to OMRDD providers (\$517,059 over the five-year audit period) is an indication that OMRDD providers do, in fact, largely understand and follow the billing rules. For example, the audit identified 157 claims for OMRDD services in 2004 where

a conflicting Medicaid hospital claim also existed; however, 930,935 total claims for OMRDD services were submitted to Medicaid on behalf of individuals with at least one inpatient hospital stay that year. With a correct billing rate of 99.98 percent, OMRDD providers demonstrated a solid understanding of the Medicaid billing rules. Additionally, while the audit identified \$517,059 in overlapping hospital and OMRDD community service claims, OMRDD appreciates the report's acknowledgment that \$274,569 of this amount would have been identified by OMRDD in its own routine post-payment reviews. OMRDD has devoted considerable resources to these reviews and is pleased that the impact has been demonstrated in this audit.

While the audit findings confirm that, overall, OMRDD providers largely understand and follow the billing rules, OMRDD acknowledges its targeted case management program, Medicaid Service Coordination (MSC), represents an opportunity for improvement and will work with the Department to provide clearer direction on billing during hospitalizations to agencies delivering MSC. While the Department has instructed providers of targeted case management that this service is only allowable during the first thirty days of a hospital stay, based on the audit findings, OMRDD will reinforce with MSC providers that, although MSC service coordination may be required while the person has an extended hospital stay, billing for this service is prohibited where the hospital stay has extended beyond thirty days.

**Recommendation #3:**

Assist OMH officials in implementing a process to identify potentially inappropriate Medicaid payments.

**Response #3:**

The primary responsibility for identifying inappropriate Medicaid payments rests with the OMIG. The OMIG will continue to collaborate with OMH officials (and other relevant agencies) in these efforts.

**Recommendation #4:**

Assist OMRDD officials in enhancing their processes for identifying potentially inappropriate Medicaid payments for hospitalized recipients.

**Response #4:**

The primary responsibility for identifying inappropriate Medicaid payments rests with the OMIG. The OMIG will continue to collaborate with OMRDD officials (and other relevant agencies) in these efforts.