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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**

**INAPPROPRIATE  
MEDICAID BILLINGS FOR  
DENTAL SEALANTS**

**Report 2007-S-58**

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## AUDIT OBJECTIVE

The objective of our audit was to determine whether New York State's medical assistance program (Medicaid) made inappropriate payments for dental sealants.

## AUDIT RESULTS - SUMMARY

During our four-year audit period ended March 31, 2007, we identified approximately \$469,300 in inappropriate Medicaid payments for dental sealants. Our review of medical claims data showed dental sealants were applied more than the allowed frequency and were given to recipients who did not meet the age requirement.

We identified dental practices operating with multiple dental providers that were not enrolled in Medicaid as a group, and were not properly identifying servicing providers on claims. Such practices inhibit the Department of Health's ability to ensure only qualified and non-sanctioned providers are providing services to Medicaid recipients.

These improprieties occurred because dental providers did not comply with Department guidelines for billing Medicaid and eMedNY lacks the controls necessary to detect and prevent these overpayments. Our report contains six recommendations to recover overpayments and to improve controls.

This report, dated November 26, 2007, is available on our website at: <http://www.osc.state.ny.us>

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Division of State Government Accountability  
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## 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. In New York State, this program is funded jointly by the federal, State, and local governments. The centralized Medicaid management information and claims processing functions are handled through the Department's eMedNY system, which was implemented on March 24, 2005.

For the period April 1, 2003 through December 31, 2006, Medicaid paid 560,000 Medicaid claims totaling more than \$26 million for dental sealants. The American Dental Association defines sealants as a resinous material designed to be applied to the biting surfaces of posterior (back) teeth to prevent tooth decay. Due to the nature of the procedure, detection of the existence of previously applied sealants by physical examination or x-ray is difficult. The difficulty resides in the fact that sealants can match tooth color and cover tiny hairline tooth decay. Department dentists confirmed the difficulty in detecting sealant dental services and that this procedure is prone to potential abuse.

## AUDIT FINDINGS AND RECOMMENDATIONS

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### *More Than One Sealant Within a Three-Year Period*

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As outlined in the New York State Medicaid Dental Procedure Codes manual, application of dental sealants (procedure code D1351) is restricted to previously unrestored permanent first and second molars that exhibit no signs of tooth decay on occlusal (biting) or proximal (between adjacent teeth) surfaces for patients between 5 and 15 years of age.

Reapplication, if necessary, is permitted once every three years. The manual also recommends the use of opaque or tinted sealants for ease of checking bond effectiveness.

During our four-year audit period, Medicaid paid approximately \$463,000 for dental sealants that were applied more than once to the same tooth within a three-year period and for dental sealants which appear to never have been provided. For example, our review identified 354 instances in which a recipient got 3 or more sealants to the same tooth within 3 years; 7 of those instances involved recipients getting 5 sealants on the same tooth.

We made onsite visits to seven dental practices. During one visit, we found that the provider billed for multiple sealants on the same teeth within a one-year period for seven recipients, and in some instances, billed up to three sealants on the same tooth within five months. This provider did not have medical records to support all sealant procedures. In fact, six of the seven dental practices we visited all lacked records supporting one or more sealants billed for in our sample. Pursuant to Title 18 of the New York State Codes, Rules and Regulations (18 NYCRR), Section 504.3(a), Medicaid providers must maintain contemporaneous records demonstrating their right to receive payment and must keep, for a period of six years from the date the care, services, or supplies were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment. Without being able to review provider records, we were not able to determine the appropriateness of these billings for dental sealants.

Based on our data analysis, we determined that in some instances different dentists billed

for sealants on the same tooth for the same recipient within the three-year period. In other instances, the same dentist billed more than once for sealants on the same tooth within a three-year period. For instance, one recipient received six sealants on the same tooth from six providers within three years. Another recipient had 5 sealants done within 18 months; 4 of those sealants were applied by the same provider within 3 months.

We discussed our findings with Department officials and learned that the existing frequency edit in the eMedNY system flags claims for multiple sealants applied by the same provider within a three-year period (sealants applied by different providers are not flagged, but rather are paid). Flagged claims are reviewed manually by Department staff to determine the appropriateness of the procedure and whether such claims should be paid or denied. Department officials indicated they experienced a significant backlog in their manual claim review due to a shortage in staffing resources and in January 2006 allowed a mass claim adjudication of all pending dental claims to expedite payment processing to providers. Therefore, some claims for dental sealants were flagged, but never reviewed for appropriateness. Department officials believe this was the cause for some of our results. We were not able to determine what percentage of the claims in question were mass-adjudicated.

We discussed with Department officials their interpretation of the New York State Medicaid Dental Procedure Codes manual. According to the manual, only necessary reapplications of sealants are permitted once every three years, and the regulations do not differentiate between sealants applied by the same or different providers. Department officials informed us the Department does not restrict a recipient from getting multiple sealants on the same tooth within a three-year

period from different providers. Therefore, Medicaid reimburses for multiple sealants on the same tooth if they were done by different providers. According to Department officials, multiple sealants applied by the same provider are flagged for manual review.

We disagree with the Department's interpretation of the manual. We believe the manual as stated is correct. In fact, we contacted neighboring states, Massachusetts and New Jersey, and similar to New York Medicaid, both states have limitations as to how often a recipient can get sealants. The New Jersey Medicaid Dental Services manual allows application of sealants once in a lifetime per tooth. Consequently, New Jersey Medicaid reimburses for a sealant only once and instructs providers to make certain that sealants were not applied on the same teeth previously. The Massachusetts MassHealth Provider manual limits the reimbursement for sealants to once every three years per tooth. Unlike New York, neither state reimburses for multiple sealants within the allotted frequency to the same recipient even if such sealants were done by different providers.

### **Recommendations**

1. Review the \$463,000 in payments we identified and recover inappropriate payments.
2. Implement appropriate edits to the eMedNY system to prevent these overpayments from occurring, such as creating an edit to flag payments for multiple sealants to the same recipient for the same teeth within three years among different providers.
3. Instruct dental providers on the appropriate way to bill Medicaid for sealant services.

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### *Sealants on Recipients Outside the Age Range*

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The New York State Medicaid Dental Procedure Codes manual stipulates that dental sealants are allowed only for recipients between the ages of 5 and 15 years old.

During our four-year audit period, Medicaid paid approximately \$6,300 on behalf of 45 Medicaid recipients who did not meet the age requirement. From our onsite visits and discussions with Department officials, we determined: date of birth information on eMedNY is not always correct per patient medical charts and in some cases not always populated onto eMedNY; payments are made on claims in which the date of service is prior to a recipient's date of birth; and payments are made on claims in which the date of service is outside the allowable age range (for instance, one provider billed for recipients under one year old).

Although the Department does have edits in the eMedNY system to pend dental claims submitted for recipients outside the allowed age range, many times the claims are paid after Department review of claims. Furthermore, for some of the claims we identified as potential inappropriate payments, the dates of birth on the claims history files were inaccurate and different from the respective dates of birth on the recipient history files. According to Department officials, these differences occurred during the conversion of legacy Medicaid claims history to eMedNY claims history in March 2005. When the Department converted the legacy claims history, dates of birth on legacy claims history files were converted as "1/1/XX," with only the actual year of birth updated to eMedNY. Although upon further review, we determined these claims were paid based on complete date of birth data in

recipient history files, some were still in fact paid on behalf of recipients outside the allowable age range. We note the Department has rectified the conversion problem and on more recent claims, the date of birth has been properly updated and is accurate on eMedNY files.

### **Recommendations**

4. Review the \$6,300 in payments we identified and recover inappropriate payments.
5. Ensure the date of birth information used by the eMedNY edit that checks a recipient's age is reliable and accurate.

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### *Provider Identification Numbers*

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Pursuant to 18 NYCRR, a “group of practitioners” is defined as two or more health care providers who practice their profession at a common location. Practitioners who practice in a group setting are required to enroll as a group and comply with the requirements associated with group practices, including accurately stating the servicing provider (the provider who actually provided the medical service for which payment is sought) on all claims. Without proper identification of servicing provider, the Department cannot ensure only qualified and non-sanctioned providers are providing services to Medicaid recipients.

During our testing, we identified dental practices operating with multiple dental providers at the same location that were not enrolled as a group, and were not properly identifying servicing providers on claims. While onsite at one dental practice, we found that the practice was operating without a Medicaid Group identification number (ID). The practice had four dentists working out of

two locations and was billing Medicaid under one dentist's individual Medicaid ID. Per the Department's Medicaid Provider Enrollment office, this dental practice never applied for a Medicaid Group ID. We further determined that the practice's claims did not identify the servicing provider. Upon review of patient records, we did not see any indication that the billing provider identified on claims administered any services to Medicaid recipients.

Another dental group we visited had a Medicaid Group ID, but did not use it consistently to bill Medicaid. Sometimes dentists in the group used their individual Medicaid IDs or billed under the individual ID of the group's co-owner. Our onsite review of patient records showed that their claims did not always indicate the servicing provider correctly. Two dentists in the group were performing procedures on Medicaid recipients while they were not enrolled in the Medicaid program. Rather, the co-owner of the group billed for their services under her Medicaid ID. The co-owner indicated that both providers in question were in the process of getting their Medicaid IDs. The Medicaid Provider Enrollment office verified the pending status of one of these dentists at the time of our review. The other dentist submitted her application two weeks after our review was complete.

The Department issues monthly publications of Medicaid updates to inform providers of up-to-date changes that may affect their participation in Medicaid. About three years ago, providers were updated on properly identifying groups and servicing providers. There appears to be a need to issue a more current notification.

## Recommendation

6. Reinstruct dental providers on the appropriate way to enroll in Medicaid and identify servicing providers.

## AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited the Department's administration of Medicaid payments for dental sealants for the period April 1, 2003 through March 31, 2007. To accomplish our objective we met with Department and Office of the Medicaid Inspector General representatives to gain an understanding of the policies and controls surrounding the appropriateness of payments for dental sealants. We reviewed applicable sections of State laws and regulations, and examined the Department's relevant policies and procedures. We extracted questionable claims from eMedNY and verified the accuracy of such payments. We visited seven dental providers who administered dental sealant services to Medicaid recipients and reviewed 830 claims for 157 patient records. The providers were judgmentally selected based on high number of dental sealant claims paid during our scope period and their geographic location in order to get a cross-section across the state. Claims were judgmentally selected based on risk factors such as recipients receiving sealants who were outside the age limit and receiving multiple sealants within a three-year period.

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. Appendix B contains State Comptroller's comments which address matters contained in the Department's response.

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.

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## **CONTRIBUTORS TO THE REPORT**

Major contributors to this report include Steven Sossei, Sheila Emminger, Andrea Inman, Erika Akers, Lucas McCullough, Ekaterina Merrill, and Tracy Samuel.

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*

October 25, 2007

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

Dear Ms. Emminger:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's draft audit report on "Inappropriate Medicaid Billings for Dental Sealants" (2007-S-58).

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Wendy Saunders".

Wendy E. Saunders  
Chief of Staff

Enclosure

cc: Stephen Abbott  
Deborah Bachrach  
Homer Charbonneau  
Randall Griffin  
Gail Kerker  
Katherine Napoli  
Sandra Pettinato  
Robert W. Reed  
Philip Seward  
James Sheehan

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Draft Audit Report 2007-S-58 on  
“Inappropriate Medicaid Billings for Dental Sealants”**

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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 2007-S-58 on "Inappropriate Medicaid Billings for Dental Sealants."

**Recommendation #1:**

Review the \$463,000 in payments we identified and recover inappropriate payments.

**Response #1:**

The audit identified potential overpayments totaling \$469,300, or 1.8 percent, of the \$26 million paid for dental sealants. The Department does not entirely agree with the basis OSC utilized to identify the potential overpayments, although it will work with the Office of the Medicaid Inspector General (OMIG) to re-evaluate the original prepayment review determinations and identify and recover any payments determined appropriate for recoupment.

Claims for dental sealants (procedure code D1351) are systematically pended for manual review whenever there is a paid claim history of a sealant having been applied to the same tooth within three (3) years. The pended claim is denied during manual review if a discernable connection is established between the pended claim's provider and the provider of the historical paid claim. Otherwise, payment is approved. This policy was adopted because there is no reliable means for the provider to know if the service had been provided within the past three years by another unaffiliated provider. To hold liable providers who have no means of verifying treatment history, and who provided treatment in good faith with the expectation of payment, would be a substantial deterrent to a desirable preventive service. This is not an interpretation of the policy manual as much as it is a means of implementing policy to provide an appropriate and necessary preventive service for children.

* <b>Comment</b> 1
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**Recommendation #2:**

Implement appropriate edits to the eMedNY system to prevent these overpayments from occurring, such as creating an edit to flag payments for multiple sealants to the same recipient for the same teeth within three years among different providers.

\*See State Comptroller's Comments, page 12

**Response #2:**

In February 2006, an eMedNY evolution project was proposed to allow providers to obtain treatment history through an electronic prior authorization process for certain procedures, including dental sealants. This Dispensing Validation System (DVS) project is currently scheduled for release in the first part of 2008 and can provide a means for changing the current policy to include limiting all providers from applying a sealant to the same tooth within a three year period. DVS will require providers to access the Medicaid Eligibility Verification System (MEVS) through the Electronic Provider Assisted Claim Entry System (ePACES) PC software or the Omni 3750 card swipe machine. Should the provider not use these MEVS access methods, a prior authorization request would have to be submitted, entailing manual review of the historical files by a Department reviewer.

**Recommendation #3:**

Instruct dental providers on the appropriate way to bill Medicaid for sealant services.

**Response #3:**

The Department is currently evaluating all aspects of the impact of implementing DVS, including necessary provider education.

**Recommendation #4:**

Review the \$6,300 in payments we identified and recover inappropriate payments.

**Response #4:**

The Department will work with the OMIG to re-evaluate the original prepayment review determinations and to identify and recover any payments determined appropriate for recoupment.

**Recommendation #5:**

Ensure the date of birth information used by the eMedNY edit that checks a recipient's age is reliable and accurate.

**Response #5:**

eMedNY utilizes the complete birth date (CCYYMMDD), obtained from the client reference table, for adjudicating dental sealant claims. This data format has been utilized since the inception of eMedNY on March 24, 2005.

Additionally, the final sentence of the last paragraph on page four of the report states, "Furthermore, in the legacy Medicaid system, only the year of birth was captured so

when the Medicaid System was updated to eMedNY in March 2005, the date of birth on many recipients was incorrect and, therefore, claims were paid under false information.” This statement implies that eMedNY utilized recipients’ historical legacy birth data for adjudicating claims, which is not correct; eMedNY did not pay any claims based on false information. While the legacy files only contained recipients’ year of birth, in preparation for the March 24, 2005 implementation of eMedNY, a conversion of complete birth date data obtained from the Welfare Management System was loaded into the eMedNY client subsystem.

\*  
**Comment**  
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**Recommendation #6:**

Reinstruct dental providers on the appropriate way to enroll in Medicaid and identify servicing providers.

**Response #6:**

Information similar to that published in the June 2004 issue of Medicaid Update will be re-published in the October 2007 edition and additionally posted to the eMedNY website.

\*See State Comptroller’s Comments, page 12

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## APPENDIX B - STATE COMPTROLLER'S COMMENTS

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1. As we stated in our report, Department officials indicated they experienced a significant backlog in their manual claims review and in January 2006 allowed a mass claim adjudication of all pending dental claims to expedite payment processing to providers. Therefore, some claims for dental sealants were flagged, but never reviewed for appropriateness. In addition, as we reported, other states limit the reimbursement for sealants to once every three years per tooth, even if such sealants were done by different providers. Moreover, as discussed later in

our report, dental practitioners do not always indicate their affiliation with other providers, which may limit the Department's ability to discern a connection between the pended claim's provider and the provider of the historical claim.

2. Certain matters contained in our draft audit report were changed based on the Department's response.