
**Thomas P. DiNapoli
COMPTROLLER**



Audit Objective..... 2

Audit Results - Summary..... 2

Background..... 2

**Audit Findings and
Recommendations..... 3**

Questionable Claims and Suspicious
Circumstances..... 3

Recommendations..... 4

Audit Scope and Methodology..... 4

Authority 4

Reporting Requirements..... 4

Contributors to the Report 5

Appendix A - Auditee Response 6

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF HEALTH

**INAPPROPRIATE
MEDICAID BILLINGS FOR
DENTAL SERVICES**

Report 2008-S-67

AUDIT OBJECTIVE

Our objective was to determine whether Medicaid dental claims submitted by a certain provider, Alan Zukor, DDS, were appropriate.

AUDIT RESULTS - SUMMARY

Alan Zukor, DDS is a dentist who provides services to patients with Medicaid coverage. According to the Department of Health, Dr. Zukor maintains eight dental facilities in Brooklyn, New York. We initiated our audit because our ongoing analyses of Dr. Zukor's Medicaid records indicated some unusual or unreasonable billings for dental services. In addition, Dr. Zukor's Medicaid payments significantly increased in 2008 compared to his 2007 billings. For January and February of 2008, Dr. Zukor would have been reimbursed \$418,789 for Medicaid claims he submitted, if we had not questioned his claims. During 2007, Medicaid reimbursed Dr. Zukor a total of \$214,203.

In 2008, Dr. Zukor submitted many claims for extracting 32 teeth from a single patient in one day. For several patients, Dr. Zukor submitted a claim for filling all 32 teeth and then shortly thereafter, submitted another claim for extracting the same patient's 32 teeth. In addition, many of the dental services claimed by Dr. Zukor were for patients that live in central or upstate New York, several hundred miles away from his Brooklyn offices. We visited Dr. Zukor's office to review dental records for certain Medicaid recipients; however, no records were available for our review.

We did not approve payment of \$307,537 in Medicaid claims billed in 2008. We recommend the Department prevent future payments to Dr. Zukor, review Dr. Zukor's previously paid claims totaling \$1.4 million, and recover any unsupported or otherwise

inappropriate payments. We also recommend the Department implement controls to prevent payments for excessive dental services and determine whether Dr. Zukor should be decertified as a participating provider in the Medicaid program.

Department officials generally agreed with our recommendations. The Department also prevented an additional \$111,252 in Medicaid payments to Dr. Zukor by taking immediate action to stop all outstanding Medicaid checks to Dr. Zukor that had not yet cleared the bank and suspending all newly submitted claims.

This report, dated July 9, 2008, is available on our website at: <http://www.osc.state.ny.us>.

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Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

In New York State's Medicaid program, certain dental services are eligible for reimbursement at rates established by the Department of Health (Department). To be reimbursed, a dentist must submit a claim to the Department's automated claims processing and payment system, eMedNY. The Department's Medicaid rules and regulations require providers to maintain comprehensive patient dental records for six years and be made available upon request.

The Office of the State Comptroller performs ongoing audits of Medicaid payments. In conjunction with these audits, we perform various analyses of Medicaid claims that have been submitted by providers such as dentists. These analyses are designed to identify billing patterns that warrant further review. In some cases, detailed examinations of a provider's

medical records are necessary to ensure that the claims are valid and appropriate. Such was the case with claims submitted by Alan Zukor, DDS, a sole proprietor who maintains several dental offices in Brooklyn. In addition to the \$418,789 claims we are questioning, Medicaid reimbursed Dr. Zukor \$1.4 million since 2004.

AUDIT FINDINGS AND RECOMMENDATIONS

Questionable Claims and Suspicious Circumstances

On March 6, 2008, we disallowed \$307,537 in Medicaid payments for Alan Zukor, DDS, and instructed the Department to prevent any further payments until we reviewed Dr. Zukor's records. Consequently, the Department prevented an additional \$111,252 in Medicaid payments to Dr. Zukor by taking immediate action to stop all outstanding Medicaid checks to Dr. Zukor that had not yet cleared the bank and suspending all newly submitted claims.

The \$418,789 in claims we questioned were submitted for 166 Medicaid recipients. We questioned these payments because Dr. Zukor claimed to have either extracted 32 teeth from a patient during one office visit or filled all 32 teeth for another patient during two office visits. In some cases, Dr. Zukor submitted a claim for extracting teeth he recently filled.

In one example, Dr. Zukor submitted a claim to Medicaid for filling 11 teeth on September 3, 2007 and filling 19 additional teeth on September 9, 2007. For each tooth, Dr. Zukor claimed to have filled three or more tooth surfaces (a tooth has five surfaces). Dr. Zukor then submitted a claim to Medicaid for extracting all 32 teeth from the same patient in his dental office five months later, on February 21, 2008. In addition, Dr. Zukor

claimed he had performed these procedures in his Brooklyn office. According to the Department's Medicaid eligible information, the recipient lived in central New York (Utica) at the time. Also, the Department's medical review experts consider any claim for more than 24 fillings for a single patient during a single office visit excessive unless another medical condition is involved (i.e. disabled patients treated in hospital settings).

To further determine the appropriateness of dental claims submitted by Dr. Zukor, we made arrangements with his office assistant to review a sample of medical records supporting claims billed to Medicaid during January and February 2008. Our sample included ten Medicaid recipients living in the Brooklyn area and ten recipients living in upstate New York. During our visit to Dr. Zukor's office we were informed that no medical records or dental charts were available for any recipient included in our sample.

Each week, the Department's automated claims processing system, eMedNY, uses various controls (edits) to prevent the payment of inappropriate Medicaid claims. For example, eMedNY will deny dentists' claims for filling or extracting a previously extracted tooth. Although eMedNY does have edits to detect dental procedures performed on previously extracted teeth, it lacks controls necessary to detect an excessive or improbable number of dental fillings or tooth extractions performed on one dental patient during one office visit. For example, on January 8, 2008, Dr. Zukor claimed to have filled 243 teeth for 18 of his patients. Medicaid would have reimbursed Dr. Zukor \$27,000 if we had not disallowed this payment. According to Dr. Zukor's claims, on February 21, 2008, he extracted 256 teeth from eight patients - 32 teeth per patient. Medicaid would have reimbursed Dr.

Zukor \$4,320 if we had not disallowed the payment.

Since there were no medical records supporting any of Dr. Zukor's dental claims included in our sample, the Department should investigate all of Dr. Zukor's previously paid claims totaling \$1.4 million. In addition, the Department should determine whether Dr. Zukor should be decertified as a participating provider in the Medicaid program.

Recommendations

1. Do not pay Dr. Zukor the \$307,537 in pending reimbursements for the claims we disallowed.
2. Investigate the \$1.4 million in previously paid claims and recover any inappropriate payments.
3. Implement edits to the eMedNY system to identify and prevent payment for excessive dental services.
4. Determine if Dr. Zukor should be decertified as a participating provider in New York State's Medicaid Program.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit according to generally accepted government auditing standards. We audited the Medicaid claims submitted by Dr. Zukor for the six month period ended March 31, 2008. To accomplish our audit objective, we met with Department officials, reviewed applicable federal and State laws and regulations, and examined the

Department's relevant policies and procedures. We also visited the office of Dr. Zukor to review a judgmental sample of his claims; however, no documentation was available to support these claims.

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.

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 Steve Sossei, Sheila Emminger, Warren Fitzgerald, Earl Vincent, Brian Krawiecki, Christopher Morris, Wendy Matson, Lucas McCullough, Shanna Mogan, Dino Jean-Pierre, Trina Clarke, and John Ames.

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

May 22, 2008

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 draft audit report 2008-S-67 on "Inappropriate Medicaid Billings for Dental Services."

Thank you for the opportunity to comment.

Sincerely,

Wendy E. Saunders
Chief of Staff

Enclosure

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

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2008-S-67 on
"Inappropriate Medicaid Billings for Dental Services"**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) draft audit report 2008-S-67 on "Inappropriate Medicaid Billings for Dental Services."

Recommendation #1:

Do not pay Dr. Zukor the \$307,537 in pending reimbursements for the claims we disallowed.

Response #1:

The Attorney General's Medicaid Fraud Control Unit (MFCU) placed a 100 percent withhold for the \$307,537 as of March 6, 2008.

Recommendation #2:

Investigate the \$1.4 million in previously paid claims and recover any inappropriate payments.

Response #2:

This case has been referred to and accepted by MFCU, which now has ongoing civil and criminal actions against the provider.

Recommendation #3:

Implement edits to the eMedNY system to identify and prevent payment for excessive dental services.

Response #3:

The Department is pursuing development and implementation of edits that will pend (deny) claims for professional review whenever a specified number of surfaces (EP 1148) or an unreasonable number of teeth (EP 1149) are restored on a single day by a single provider.

Recommendation #4:

Determine if Dr. Zukor should be decertified as a participating provider in New York State's Medicaid Program.

Response #4:

The Office of the Medicaid Inspector General will review the MFCU's civil and criminal actions for consideration of any additional appropriate actions.