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OFFICE OF THE STATE COMPTROLLER

June 4, 2009

Richard F. Daines, M.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Report 2008-F-54

Dear Dr. Daines:

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, we have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Medicaid Overpayments for Mental Health Services* (Report 2006-S-53).

Background, Scope and Objective

The Medicaid program was established under Title XIX of the Federal Social Security Act to provide medical assistance to needy individuals. The Department administers the Medicaid program in New York State. One area of care provided under the Department's Medicaid program is mental health services. These services include individual, group and family psychotherapy, pharmacologic management, and electroconvulsive therapy, among other procedures.

To manage and process Medicaid claims, the Department utilizes the State's eMedNY system, which the Department implemented on March 24, 2005. Since its implementation, the Department has programmed numerous computer checks (edits) into the eMedNY system to help prevent incorrect payments to providers. As new risks of incorrect payment processing are identified, including those identified by the Comptroller's Medicaid audits, the Department develops edits to address those risks.

During the period January 1, 2003 to May 31, 2006, Medicaid paid approximately \$1.5 billion for nearly 16 million mental health procedures performed by over 5,500 providers. This includes 1,343 clinics and 4,191 practitioners. In 2005, Medicaid payments for mental health services more than doubled the amount in 2004, increasing from \$363 million to \$808 million.

Our initial report, issued December 17, 2007, examined whether inappropriate payments were made to providers for pharmacological services or clinic based mental health services for outpatients for the period August 30, 1999 to October 26, 2006. For this period, our audit identified more than \$1.3 million in Medicaid overpayments for mental health services. Many of these overpayments occurred because providers double-billed Medicaid, as follows:

- Nearly \$662,000 was paid to providers who inappropriately billed for pharmacologic management, even though this service was billed as part of other procedures;
- More than \$380,000 was paid to practitioners at outpatient clinics that also billed Medicaid for the same services; and
- About \$303,000 was paid to clinics that double billed for mental health services using inappropriate reimbursement rates.

In addition, more than \$436,000 was paid to a psychiatrist who admitted that he submitted claims for services to patients he had not seen. In addition, the psychiatrist used a clinical social worker to see patients, and he submitted corresponding claims using his own Medicaid service provider number to garner excessive payments. The psychiatrist also billed for more than 24 hours of treatment in a single day, and he did not have documentation to support many of his billings. We referred this matter separately to the State Attorney General for further investigation and criminal prosecution, if appropriate.

We concluded that the Department did not have appropriate edits and controls in the Medicaid payment processing system to prevent overpayments for certain mental health claims. Further, the Department needed to recover the overpayments we identified. In addition, we determined that the Department and Office of Mental Health (OMH) need to improve communication with providers regarding appropriate billing practices for pharmacological management and clinical mental health services for outpatients.

The objective of our follow-up was to assess the extent of implementation, as of April 17, 2009, of the eight recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

We found that the Department made considerable progress in addressing the issues included in our initial report. At the time of our follow-up, the Department was actively pursuing the recovery of more than \$1 million in overpayments identified by our report. Of the report's eight recommendations, three were implemented, four were partially implemented, and one was not implemented. Department officials should take additional actions to sufficiently address certain issues from the initial report.

Follow-up Observations

Recommendation 1

Develop and implement an edit in the Medicaid claims processing system that will prevent double payments to providers for pharmacologic management services when providers are paid for other mental health procedures or certain evaluation and management procedures that already included the pharmacologic management services.

Status - Implemented

Agency Action - The Department implemented a series of edits to deny duplicative procedure claims for pharmacological management services when providers are paid for other mental health procedures or certain evaluation and management procedures that already included the pharmacologic management services.

Recommendation 2

Investigate and recover all overpayments made to providers who double billed for pharmacologic management

Status - Partially Implemented

Agency Action - OMIG officials have reviewed and confirmed the nearly \$662,000 in overpayments identified in report 2006-S-53. At the time of our follow-up review, officials were assessing these providers and developing plans to collect the overpayments from them.

Recommendation 3

Clarify and re-communicate to all providers the Department's policy on properly billing for pharmacologic management with other procedures.

Status - Implemented

Agency Action - The Department amended the provider manual to clarify the rules and justifications for billings for pharmacologic management with other procedures. The Department also included similar language on this issue in the November 2008 monthly Medicaid update.

Recommendation 4

Develop and implement appropriate edit(s) in the Department's Medicaid claims processing system to prevent practitioners from being paid for mental health services provided at an outpatient clinic. If such edits are not feasible, develop procedures for monitoring these claims to detect inappropriate payments and take appropriate enforcement action when such payments are identified.

Status - Partially Implemented

Agency Action - At the time of our follow-up review, Department and OMH officials were in ongoing discussions on the feasibility of implementing edits to address these recommendations. OMH officials stated that they were preparing a formal request for a project designed to develop and implement the edits in question.

Recommendation 5

Recover all payments to the 106 practitioners we identified that incorrectly billed for mental health services provided at an outpatient clinic.

Status - Partially Implemented

Agency Action - OMIG officials have reviewed and confirmed the more than \$380,000 in overpayments identified in report 2006-S-53. At the time of our follow-up review, officials were assessing these providers and developing plans to collect the overpayments from them.

Recommendation 6

Improve communication with OMH and providers to ensure providers are aware of all mental health billing policies.

Status - Implemented

Agency Action - Officials prepared updated written guidance addressing outpatient billing policies for mental health services in a clinical setting. Also, the Department will place notification of the updated guidance in the monthly Medicaid update.

Recommendation 7

Implement an edit in the Department's Medicaid claims processing system to prevent payment for mental health service claims using a Department rate. If this is not feasible, develop a process for monitoring these claims to detect over billings.

Status - Partially Implemented

Agency Action - At the time of our review, Department and OMH officials were in ongoing discussions regarding the feasibility of implementing edits to prevent payments for mental health service claims using a Department rate. In addition, OMH officials stated that they are preparing a formal project request to address this recommendation.

Recommendation 8

Recover all payments from the 27 clinics we identified who inappropriately billed for mental health services using a Department rate.

Status - Not Implemented

Agency Action - At the time of our review, no specific actions had been taken to recover these overpayments. OMIG officials stated that they are deferring recovery efforts for another project (Maximus) which will address duplicate payments to the same providers. According to OMIG officials, Maximus will include an expanded analysis of potential overpayments, beyond those we identified at the 27 clinics, for the period August 1, 2006 through July 31, 2007. Officials also stated that they will pursue overpayments we identified that were made prior to August 1, 2006. However, there was no documentation available of any work related to the recovery of these overpayments.

Major contributors to this report were Robert Wolf, Amanda Strait and Arnold Blanck.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Mr. Thomas Lukacs, DoB
Mr. Stephen Abbott, DoH
Mr. Steven Sossei, OSC