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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 20, 2011

Mr. James W. Clyne, Jr.
Executive Deputy Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Report 2010-F-33

Dear Mr. Clyne:

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 to implement the recommendations contained in our audit report, *Inappropriate Medicaid Payments for Dental Services Provided to Patients with Dentures* (Report 2008-S-125).

Background, Scope and Objective

The Department of Health (Department) administers the Medicaid program. Medicaid provides only essential dental care and does not pay for cosmetic services. When medically necessary, Medicaid recipients can be fitted with complete dentures. Complete dentures are called "conventional" or "immediate" depending on when they are made and worn by the patient. Conventional dentures are made and worn after a sufficient time has passed to allow the patient's gums to heal after the removal of teeth. Immediate dentures are worn immediately after the removal of the patient's teeth. Since immediate dentures are made primarily for cosmetic purposes and often need to be replaced with new dentures after the patient has healed, Medicaid does not pay for them. Patients with full dentures would typically need services such as realignments and repairs. These services would be considered essential dental care that Medicaid would pay for.

Our initial audit report, which was issued on March 25, 2009, examined whether Medicaid made inappropriate payments for dental services performed on patients with dentures. We found that Medicaid potentially overpaid 1,788 dentists \$2.9 million for dental services performed on patients with dentures during our five year audit period ended June 30, 2008. Our analysis of Medicaid claims identified 21,752 questionable services for 6,512 patients who wore full dentures. For example 1,483 dentists billed Medicaid \$863,000 for cleanings, fillings, extractions, and x-rays for 5,046 patients with full dentures. The objective of our follow-up was to assess the extent of implementation, as of January 3, 2011, of the three recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

Department officials have made progress in correcting the problems we identified in the initial report. However, improvements are still needed. All three prior audit recommendations have been partially implemented.

Follow-up Observations

Recommendation 1

Review the \$2.9 million in potential overpayments we identified and recover inappropriate payments.

Status - Partially Implemented

Agency Action - The Office of the Medicaid Inspector General (OMIG) investigates and recovers inappropriate Medicaid payments on behalf of the Department. In May 2010, OMIG began a data matching project based in the findings in our original audit report. OMIG's project includes a review of 148 dental procedure codes; 45 of which were included in our original audit. However, another 19 codes identified by our audit have not been included, and therefore will not be subject to our recommended review. Further, OMIG's project is limited to the five year payment period January 1, 2005 through December 31, 2009. OMIG's time period does not include July 1, 2003 to December 31, 2004; the beginning of the scope of our original audit. Therefore, claims paid for selected procedure codes during this period will also not be subject to review.

Recommendation 2

Investigate the five dentists we visited during our audit and determine if any further actions should be taken.

Status - Partially Implemented

Agency Action - OMIG's Division of Medicaid Investigations (DMI) is responsible for the investigation of potential instances of fraud, waste and abuse in the Medicaid program. DMI has initiated investigations of all five dentists; one of which had been completed by January 3, 2011. In September 2009, DMI concluded one investigation by excluding one dentist as a Medicaid provider and referred the dentist to the New York State Office of Professional Discipline for further action. The other four investigations were still ongoing at the time of our review. One investigation, begun in November 2008, was at a point where investigators were compiling documentation for administrative action. A second, begun in May 2009, had been expanded to include additional claims for a high volume of transportation services, and was still under review. DMI was also continuing to investigate the other two dentists, whom it identified as part of a dental group. The Department's

Office of Health Insurance Programs was also reviewing this group's claims as part of its research to identify potential systematic problems and solutions.

Recommendation 3

Implement appropriate controls to detect and prevent these overpayments from occurring.

Status - Partially Implemented

Agency Action - Department officials placed an article in their March 2009 Medicaid Update to remind providers of the allowable services for patients with dentures. In addition, we found claims for 10 of the 64 procedures identified by our prior audit now either require prior authorization or are automatically pended for manual review before payment. Officials have also installed additional controls in the eMedNY system to detect and prevent potential overpayments associated with 38 other procedure codes. Officials have not developed additional controls for the remaining 16 procedure codes. They indicated that claims for eight of these codes would still require additional information, such as the specific tooth site, to fully evaluate the appropriateness of the service for each patient with dentures. Similarly, they indicated the other eight procedures may be appropriate in some cases; even for patients with upper, lower or full dentures. Because these claims would require specific additional information to make a determination, officials do not believe routine system edits would be cost effective. However, we believe that the Department should still continue to explore the implementation of other cost-effective controls to detect and prevent overpayments from occurring for these procedure codes.

Major contributors to this report were Karen Bogucki and Donald Collins.

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,

Edward J. Durocher, CIA
Audit Manager

cc: Mr. Stephen Abbott, Department of Health
Mr. Stephen LaCasse, Department of Health
Mr. Thomas Lukacs, Division of the Budget