



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Medicaid Drug Rebate Program Under Managed Care

Medicaid Program Department of Health



Report 2014-S-41

February 2015

Executive Summary

Purpose

To determine whether the Department of Health (Department) has taken appropriate steps to maximize rebate collections on drugs dispensed to individuals enrolled in Medicaid managed care. The audit covered the period from October 1, 2011 to June 30, 2014.

Background

In 1990, Congress created the Medicaid Drug Rebate Program (Rebate Program) to reduce state and federal expenditures for Medicaid prescription costs. Since January 1991, the State of New York has been able to recover a portion of Medicaid prescription drug costs by requesting rebates from drug manufacturers. The Affordable Care Act, enacted in 2010, extended prescription drug rebates to cover medications dispensed to enrollees of Medicaid managed care organizations (MCOs), including both pharmacy and physician-administered drugs.

The inclusion of drug coverage within managed care, as of October 1, 2011, presented a unique challenge for the Department in terms of identifying all occurrences of drug dispensing in order to maximize rebate savings to the Medicaid program. Currently, the Department monitors drug dispensing through MCOs based on claim information from MCOs (referred to as encounter claims), including a drug's National Drug Code (NDC). The NDC is a unique number that serves as a universal product identifier for each medication and is the basis for the Department's manufacturer rebate requests.

The Department's Medicaid claims processing system (eMedNY) has edits to reject MCO encounter claims that have incomplete information, such as a missing NDC. The Department uses information from eMedNY to identify drugs that are eligible for rebate based on the NDC information submitted on the encounter claims, calculates the rebates for each, and submits rebate invoices to the drug manufacturers. According to Department officials, from October 1, 2011 to June 30, 2014, the Department collected a total of approximately \$3.6 billion in rebates from MCO drug encounter claims.

Key Findings

- The Department has not taken appropriate steps to maximize rebate collections on drugs dispensed to individuals enrolled in managed care.
- As a result of ineffective policies and processes, as well as untapped rebate opportunities, the Department did not collect as much as \$119.3 million in available rebates for the Medicaid program during the audit scope period.
- The Department did not conduct risk assessments to determine the impact of its policies and processes on MCO claims processing and rebate revenue.
- The Department doesn't have proper monitoring controls in place to ensure rejected encounter claims are successfully resubmitted to eMedNY so that rebates can be requested.
- The Department does not seek rebates on drug encounter claims from all categories of Medicaid services.

Key Recommendation

- We made 12 recommendations to the Department to obtain the \$119.3 million in uncollected rebates and improve its claims and rebate processes to maximize rebate collections on drugs dispensed to individuals enrolled in managed care.

Other Related Audit/Report of Interest

[Department of Health: Rebates and Discounts on Physician-Administered Drugs \(2010-S-72\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

February 18, 2015

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Dear Dr. Zucker:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Medicaid program entitled *Medicaid Drug Rebate Program Under Managed Care*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

Medicaid is a federal, state, and local government program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. For the year ended March 31, 2014, New York's Medicaid program had approximately 6.5 million enrollees and Medicaid claim costs totaled about \$50.5 billion. The federal government funded about 49.25 percent of New York's Medicaid claim costs, the State funded about 33.25 percent, and the localities (City of New York and counties) funded the remaining 17.5 percent.

The New York State Medicaid program, administered by the Department of Health (Department), pays medical providers either directly through fee-for-service arrangements or through monthly premiums to managed care organizations (MCOs). Under the managed care method, an MCO receives a monthly payment for each Medicaid recipient enrolled in the plan and is responsible for ensuring the enrollees have access to a comprehensive range of medical services, including pharmacy benefits as of October 1, 2011 which previously were covered under the fee-for-service method. MCOs typically have networks of participating providers that they reimburse directly for services provided to their enrollees. MCOs submit encounter claims to the Department's Medicaid claims processing system (eMedNY) to inform the Department of each medical service provided to recipients enrolled in the MCO.

In 1990, Congress created the Medicaid Drug Rebate Program (Rebate Program) to reduce state and federal expenditures for Medicaid prescription costs. Since January 1991, the State of New York has been able to recover a portion of Medicaid prescription drug costs by requesting rebates from drug manufacturers. The Affordable Care Act, enacted in 2010, extended prescription drug rebates to cover medications dispensed to enrollees of Medicaid MCOs, including both pharmacy and physician-administered drugs (physician-administered drugs are administered to patients by a medical professional in an office setting). The inclusion of drug coverage within managed care (beginning October 1, 2011) presented a unique challenge for the Department in terms of identifying all occurrences of drug dispensing in order to maximize rebate savings to the Medicaid program. Currently, the Department monitors drug dispensing through MCOs based on the information provided on the MCO encounter claims, including the Medicaid identification (ID) numbers of the providers who prescribed and dispensed the drug as well as the drug's National Drug Code (NDC). The NDC is a unique 11-digit, three-segment number that serves as a universal product identifier for each medication based on manufacturer, strength, dosage form and formulation, and package form and size, and is the basis for the Department's manufacturer rebate requests.

The eMedNY claims processing system has edits to reject MCO encounter claims that have incomplete information (e.g., missing an NDC) or contain errors (e.g., invalid provider ID number), and the MCO is expected to correct any errors and resubmit the encounter claim for reprocessing. The Department uses information from eMedNY to identify drugs that are eligible for rebate based on the NDC information submitted on the encounter claims. The Department then calculates the quarterly rebates for each drug and submits rebate invoices to the drug manufacturers. According to Department officials, from October 1, 2011 to June 30, 2014, the Department collected a total

of approximately \$3.6 billion in rebates from MCO drug encounter claims.

Federal Medicaid regulations require the Department to invoice drug manufacturers for rebates within 60 days of the end of the quarter in which claims are approved, and require drug manufacturers to pay the rebates within 30 days of receipt of the Department's invoice. In order to maximize the economic benefits of the Rebate Program, the Department must ensure that MCO claims are successfully submitted to eMedNY, and must be able to accurately process MCO drug utilization data and invoice drug manufacturers in a timely manner.

Audit Findings and Recommendations

We determined the Department has not taken appropriate steps to maximize rebate collections on drugs dispensed to individuals enrolled in managed care. We identified several areas of weakness in both policy and process as well as untapped rebate opportunities, particularly regarding rejected encounter claims and claims involving physician-administered drugs, which we estimate could have resulted in as much as \$119.3 million in additional rebates for the Medicaid program during the audit scope period.

Based on our findings, we determined the Department didn't fully consider the operational impact of transitioning the Medicaid Rebate Program from a fee-for-service to a managed care model and the controls essential for maximum rebate collections: specifically, oversight and monitoring to ensure encounter claims are complete, accurate, and successfully submitted to eMedNY; and policies and processes that enable the Department to identify all instances of drug dispensing based on MCO encounter claims information. Furthermore, we found that several Department policies actually undermine the Department's ability to collect all potential rebates by excluding certain types of claims from its Rebate Program.

Rejected Encounter Claims

In order to process encounter claims – and to identify those that are eligible for drug rebate – the Department requires that MCOs provide certain information on their encounter claims, including provider ID numbers and NDCs. The eMedNY claims processing system has edits in place to reject MCO encounter claims that are incomplete (e.g., missing an NDC) or incorrect (e.g., invalid provider ID number). In such cases, the MCO is notified of the rejection, and is expected to correct any errors and resubmit the encounter claim for reprocessing. Once encounter claims are accepted by eMedNY, the Department uses the NDC to identify rebate-eligible claims, and the Department then calculates the rebates for the drugs and submits invoices to the manufacturers.

During our audit scope period, we estimate that approximately one million rejected encounter claims were never successfully resubmitted by MCOs, accounting for an estimated \$69 million in potential rebates earned, but not collected. We determined the Department has never evaluated the fiscal impact of rejected encounter claims on Medicaid's Rebate Program and, furthermore, doesn't have a formal process in place to monitor the status of rejected claims; consequently, errors go uncorrected and claims are not reprocessed so that rebates can then be requested.

We reviewed all rejected pharmacy-dispensed MCO drug encounter claims from August 10, 2012 to June 30, 2014 (the Department does not retain rejected encounter claims that are greater than two years old), and found that, for many, the MCOs have not successfully resubmitted the claims. In one case, an MCO had made 15 attempts between October 2012 and May 2013 to submit a single drug encounter claim for a patient's asthma medication, and in each case eMedNY denied (rejected) the claim due to missing or incomplete information (e.g., provider IDs). As of October 2014, this encounter still hadn't been accepted by eMedNY, and the Department thus has not been able to collect a rebate, which we estimate at \$377. While this example may be extreme in

terms of number of attempts to submit an encounter claim, it highlights the fact that MCOs have difficulty completing claims and submitting accurate encounter information to the Department.

To determine the financial impact associated with encounter claims that were rejected and never accepted by eMedNY, we analyzed the file of rejected encounter claims (totaling about \$126.4 million) from August 10, 2012 to June 30, 2014. Using Department drug rebate data, our analysis estimated that the Department failed to collect about \$53 million in rebates from August 2012 to June 2014. For the preceding ten-month period – from October 2011, when drug coverage under the managed care plan method began, to July 2012 – we conservatively estimated another \$16 million in uncollected rebates. (We based this estimate on the percent that we determined the Department under-billed drug manufacturers from August 2012 to June 2014; this percent was then applied to the Department’s total rebates from October 2011 to July 2012.) In total, from October 1, 2011 to June 30, 2014, we estimated \$69 million in uncollected rebates.

We evaluated the rejected claims from August 2012 to June 30, 2014 that account for the \$53 million in collectable rebates to determine why they remained uncorrected. We found that about 425,000 of nearly 775,000 claims – accounting for over \$42 million in potential rebates – were rejected due to eMedNY’s Edit 78 (referring provider ID number invalid), which the Department implemented as a means to verify that the Medicaid ID of the provider who dispensed the drug is valid.

Based on our preliminary findings and recommendations, Department officials re-evaluated this edit, and, effective October 9, 2014, reprogrammed eMedNY to no longer reject encounters that fail the logic of Edit 78. This will allow for the collection of more rebates in the future. Further, Department officials informed us they contacted all MCOs that had encounter claims rejected by Edit 78, and instructed the MCOs to review their rejected encounter claims and resubmit them. Department officials stated they will continue to coordinate and monitor the progress of the MCO resubmissions, and have set a target date to have all records resubmitted by January 2015. Additionally, as a result of the audit, the Department evaluated two other eMedNY edits that rejected encounters to determine whether their purpose is still appropriate. As a result, the Department modified the edits to accept encounter records that previously were rejected.

In response to our audit the Department will also determine what assistance and/or instruction will be the most effective in helping MCOs to submit pharmacy encounter records correctly. The Department will then provide instructions to MCOs for resubmitting their rejected pharmacy encounter claims. In the interim, the Department’s Division of Program Development and Management will, as part of its ongoing dialogue with MCOs, communicate the importance of reviewing and resubmitting rejected encounter records back to the eMedNY system.

Recommendations

1. Review the identified \$69 million in uncollected rebates and, where appropriate, seek rebates.

2. Coordinate with MCOs to resubmit all rejected encounter claims, including those denied by Edit 78.
3. Ensure MCOs are trained regarding submission of encounter claims to reduce rejection of encounter claims and continue to provide assistance.
4. Develop a process for routinely evaluating rejected encounter claims (and the corresponding edits) and their impact on the rebates to the Medicaid program.

Physician-Administered Drugs Excluded From Rebate

Up until 2014, the Department excluded physician-administered drugs (drugs administered to patients by a medical professional in an office setting) from its Rebate Program. The Department has since invoiced a total of \$40.6 million in manufacturer rebates: \$3.8 million for the first quarter of 2014 and \$36.8 million retroactive to April 2010, when the Affordable Care Act was enacted. However, the Department only sought rebates on physician-administered drugs that have only one corresponding NDC (whereas many physician-administered drugs can have multiple corresponding NDCs). Also, the Department only sought rebates on physician-administered drugs provided within certain “service categories” (such as practitioner services, freestanding laboratory services, and medical supply dealers). We evaluated the impact of the Department’s policies and procedures on rebates for physician-administered drugs, and found that several undermine the Department’s ability to collect all the rebates to which it is entitled, accounting for an estimated \$50.3 million in uncollected rebates from October 1, 2011 through June 30, 2014.

One-to-Many Drugs (Limited Service Categories)

NDCs uniquely identify the drug product delivered to patients and are used as the basis for obtaining drug rebates from manufacturers. As stated previously, NDCs identify each medication based on manufacturer, strength, dosage form and formulation, and package form and size. Physician-administered drug encounter claims involve both an NDC as well as a procedure code. A physician-administered procedure code represents a specific drug (e.g., a chemotherapy drug); however, some physician-administered procedure codes have more than one corresponding NDC because a drug may come in different strengths and package sizes or from multiple manufacturers. For example, a chemotherapy drug may be provided by two manufacturers and, therefore, that chemotherapy procedure code may have two corresponding NDCs; or a chemotherapy drug may be provided by only one manufacturer, but be provided in three different strengths and therefore have three NDCs. Physician-administered drug procedure codes with more than one corresponding NDC are referred to as “one-to-many” drugs and those with only one NDC are referred to as “one-to-one.”

Using Department drug rebate data, we estimate \$24.3 million in rebates went earned, but uncollected, by the Department for one-to-many physician-administered drug encounters falling within the Department’s aforementioned limited number of service categories. We determined the Department has never sought rebates for these types of drugs under managed care because they erred in their process and failed to extract the NDC information from these encounter claims.

During our audit we brought to the Department's attention that the NDC was available on the encounter claims and could be used in the rebate process. We found \$9.7 million (of the \$24.3 million) in rebates could be easily obtained as the MCO recorded the NDC as part of the encounter claim. Subsequently, beginning in August 2014, the Department made a change to its processes and extracted the NDCs, and began seeking rebates for one-to-many physician-administered drug encounters within the Department's selected service categories. (In their response to the draft audit report, officials indicated that the Department set a target date of February 2015 to complete the retroactive invoicing for the estimated \$9.7 million in rebates in question.)

During our audit period, many physician-administered drug encounter claims were submitted to eMedNY with an invalid or a missing NDC, making it impossible for the Department to collect rebates. For these encounters, we estimate that \$14.6 million (of the \$24.3 million) in rebates could be collected by the Department if it obtained the NDC from MCOs. To address the problem of encounters with an invalid or a missing NDC, the Department implemented two eMedNY edits in April 2013 that reject physician-administered drug encounter claims with an invalid or a missing NDC. This has improved the quality of encounter data; however, not all service categories that the Department seeks rebates on are covered under these edits (e.g., medical supplies and laboratory are not covered). Moreover, when MCOs resubmit a claim (as an adjustment to a prior claim), the Department has programmed the system to accept the claim even if the NDC error has not been corrected and is still invalid or missing.

All Drugs (Additional Service Categories)

As mentioned, the Department maintains a list of service categories that it will accept for rebate and does not seek rebates on drug encounter claims from categories of service not on the list, even when the claims contain the required information for rebate. Most notably, this list excludes clinic-based services. Using Department drug rebate data, we estimated the Department could have gained an additional \$26 million in rebates if it pursued rebates for all service categories. At the time of our audit fieldwork, we determined the Department had not assessed these types of encounters for rebate potential. (In their response to the draft report, officials indicated that they were in the process of evaluating whether the Department should expand its pursuit of rebates to all categories of service, with a target date of completion of February 2015.)

The Department does not have controls in place to require NDCs on encounter claims for physician-administered drugs provided in a clinic. Therefore, many of these encounter claims also do not contain an NDC. We estimated about \$13.4 million (of the \$26 million) in rebates could be collected by the Department if it obtained the NDC from MCOs. For one-to-many drug encounters with an NDC, about \$1.3 million (of the \$26 million) could be collected. Finally, for one-to-one drugs in service categories not currently rebated, we estimate that \$11.3 million (of the \$26 million) in rebates could be collected.

In response to our audit, in December 2014 the Department initiated changes to two eMedNY edits that, if implemented, will instruct eMedNY to reject clinic-based physician-administered drug encounter claims that have an invalid or a missing NDC. If these changes are implemented, and MCOs resubmit encounter claims with correct information, the Department's ability to collect drug rebates will improve.

Recommendations

5. Review the identified \$50.3 million in uncollected rebates and, where appropriate, seek rebates.
6. Evaluate the feasibility of retroactively recovering additional rebates that were earned but not collected prior to the scope of this audit.
7. Coordinate with MCOs to resubmit all encounter claims that lack the required NDC information.
8. Evaluate the existing service categories included in the Rebate Program, and consider expanding to include all others with rebate potential. Modify the relevant eMedNY edits to reject physician-administered drug encounter claims with an invalid or a missing NDC in the expanded service categories.
9. Evaluate and, as appropriate, modify the relevant eMedNY edits to reject adjustment physician-administered drug encounter claims with an invalid or a missing NDC.
10. Consider establishing a process to require MCOs to report NDC information on all physician-administered drug encounters.
11. Provide training and assistance to MCOs regarding the proper submission of encounters, including reporting of NDC information.
12. Prospectively collect drug rebates for all eligible physician-administered drugs paid for by MCOs.

Audit Scope and Methodology

The objective of our audit was to determine whether the Department has taken appropriate steps to maximize rebate collections on drugs dispensed to individuals enrolled in Medicaid managed care.

To accomplish our audit objective and assess internal controls, we interviewed officials from the Department. We examined the Department's relevant Medicaid policies and procedures. We designed and executed computer programs to quantify the amount of rebates that went untapped by the Department's current process. Our analyses to determine the financial impact associated with uncollected rebates involved various methodologies, including (but not limited to) using the Department's actual rebate amount per NDC or applying the Department's average rebate amount (generally 35 percent of the cost of rebate-eligible drugs) where an NDC did not exist. We shared our methodologies with the Department and officials agreed to the audit approach used.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient,

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 (some of whom have minority voting rights) to certain boards, commissions, and public authorities. 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 formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of it. In their response, Department officials generally concurred with our recommendations and indicated that certain actions have been and will be taken to address them. In particular, we are pleased that the Department has already taken actions to remediate the problems identified in the report and thereby improve its overall rebate collection process. When completed, these actions could significantly improve the Department's ability to maximize rebates on drugs dispensed through managed care programs.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Health 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 why.

Contributors to This Report

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Vision

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To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Acting Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 16, 2015

Ms. Andrea Inman, Audit Director
Office of the State Comptroller
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110 State Street – 11th Floor
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Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2014-S-41 entitled, "Medicaid Drug Rebate Program Under Managed Care."

Thank you for the opportunity to comment.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

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**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2014-S-41 entitled, Medicaid Drug Rebate
Program Under Managed Care**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2014-S-41 entitled, "Medicaid Drug Rebate Program Under Managed Care."

Background

New York State is a national leader in its oversight of the Medicaid Program. Through the efforts of the Department and the Office of the Medicaid Inspector General (OMIG), over the last five years, New York State alone accounted for 54.9 percent of the national total of fraud, waste, and abuse recoveries. These results reflect a trend of increased productivity and enforcement. Over the last three calendar years, the administration's Medicaid enforcement efforts have recovered over \$1.73 billion, a 34 percent increase over the prior three-year period.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality care for its Medicaid members. Since 2011, Medicaid spending has remained under the Global Spending Cap, while at the same time providing health care coverage to an additional 840,000 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to \$7,929 in 2013, consistent with levels from a decade ago.

General Comments:

The Department is committed to fully investigating the issues raised in the Office of the State Comptroller's (OSC) report and to implementing the changes needed to ensure it obtains all drug rebates to which it is entitled. However, the OSC findings should be framed in the context to the \$5.7 billion in rebates invoiced for the quarters of the audit period and the over 262 million in accepted pharmacy encounter records for the period. Furthermore, the report makes no reference that the rebate revenue amount cited is before Federal, State, and local shares. Additionally, the Department would like to clarify several sections of the report, specifically;

- The term "missed out" under key findings gives the impression that the Department has permanently lost out on rebates, however, the Department is able to retroactively recover rebates.
- On page 10 at the end of the first paragraph, the Department would like the OSC to acknowledge that "Department officials had informed the OSC, in its response to the preliminary report, that the Department set a target date of February 2015 to complete the retroactive rebate invoicing for the estimated \$9.7 million in rebates."

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Comment
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Comment
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* See State Comptroller's Comments on page 20.

- On page 10 at the end of the third paragraph, the Department would like the OSC to acknowledge that the Department is in the process of evaluating whether the Department should expand its pursuit of rebates to all categories of service with a target date of completion of February 2015.

*
Comment
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Recommendation #1

Review the identified \$69 million in uncollected rebates, and where appropriate, seek rebates.

Response #1

The Department has already begun the process of contacting the managed care plans, requesting that they resubmit previously rejected encounter records for the \$53 million in potential uncollected rebates cited by the OSC. The Department will continue to coordinate and monitor the progress of the managed care plans' resubmissions and has a current target date of February 2015 for these records to be resubmitted.

The Department has also requested the managed care plans attempt to identify and resubmit previously rejected encounter files between October 2011 and August 10, 2012 (OSC was not able to provide rejected encounter records but *estimated* uncollected rebates to be \$16 million for this time period).

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Comment
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All encounter records resubmitted and determined eligible for rebates shall be invoiced, provided the records pass the data validation process for accurate invoicing. The current target date to get the resubmitted records invoiced is March 2015.

Recommendation #2

Coordinate with MCOs to resubmit all rejected encounter claims, including those denied by Edit 78.

Response #2

The Department began the process (in November 2014) of e-mailing the managed care plans requesting that they each resubmit previously rejected encounter records identified by the OSC as well as rejected encounter records between October 2011 and August 10, 2012. The Department has been contacted by the managed care plans and begun to receive a significant number of the previously rejected encounter claims. Progress will be tracked and the Department will continue to follow-up with the managed care plans for all rejected encounter claims.

Recommendation #3

Ensure MCOs are trained regarding submission of encounter claims to reduce rejection of encounter claims and continue to provide assistance.

Response #3

The Department has provided instruction, as recently as October and December 2014, to plans for resubmitting their identified rejected pharmacy encounter records. Plans were further instructed to review their records and determine if the rejected status was valid or invalid. If invalid, plans were advised to make the necessary corrections and resubmit the records. For records not resubmitted, plans were advised to provide a reason for not resubmitting the records.

The Department's Office of Health Insurance Programs Division of Program Development and Management (DPDM) will also, as part of its ongoing dialogue with managed care plans, continue to communicate the importance of reviewing and resubmitting rejected encounter records (in a timely manner) back to the eMedNY system.

Recommendation #4

Develop a process for routinely evaluating rejected encounter claims (and the corresponding edits) and their impact on the rebates to the Medicaid program.

Response #4

Beginning December 2014, the Medicaid Encounter Data System Compliance unit, a member from managed care rate development and a group comprised of pharmacy and rebate specialists from the DPDM met to evaluate and discuss rejected pharmacy encounters. They are also reviewing the need for pharmacy evolution projects for potential impact on encounter record submissions and editing.

These meetings will continue on a quarterly basis to determine what action is required, if any, to ensure that managed care pharmacy plans research their rejected encounter records and resubmit corrected records where applicable. Included within these meetings will be a discussion of the rejected encounter records, encounter record editing, and any perceived impacts to Medicaid rebates.

Recommendation #5

Review the identified \$50.3 million in uncollected rebates and, where appropriate, seek rebates.

Response #5

The Department is in the process of reviewing the \$50.3 million in potential rebates identified by the OSC. It is anticipated that the Department will complete its review of the balance of the encounter records identified by the OSC for potential rebates by the end of January 2015. The Department currently has a target date of March 2015 to complete any retroactive rebate invoicing on the physician administered drugs that the Department determines eligible for rebates.

Recommendation #6

Evaluate the feasibility of retroactively recovering additional rebates that were earned but not collected prior to the scope of the audit.

Response #6

The Department will attempt to retroactively recover rebates back to March 23, 2010 (the date the Federal rebate policy allowed States to begin billing for managed care physician administered drug rebates) for managed care physician administered drugs, provided the Department is able to acquire the proper information required to submit for a rebate. This is documented in a Department letter dated September 2014 to the drug manufacturers that participate in the Federal rebate program.

Recommendation #7

Coordinate with MCOs to resubmit all encounter claims that lack the required NDC information.

Response #7

The Department is currently evaluating a strategy (slated for completion by March 2015) for resubmission of claim encounters for which National Drug Codes (NDC) were not collected/submitted by the managed care plans.

Recommendation #8

Evaluate the existing service categories included in the Rebate Program, and consider expanding to include all others with rebate potential. Modify the relevant eMedNY edits to reject physician-administered drug encounter claims with an invalid or a missing NDC in the expanded service categories.

Response #8

By February 2015, the Department will complete an evaluation of all categories of service for physician administered encounter claims for inclusion in the rebate process. Should it be determined that an expansion of categories of service is warranted, the Department will revise its rebate criteria for prospective claims. It will also seek rebates retroactively where the Department has the appropriate data required to submit for a rebate. Any expansion of service categories will include an evaluation of the relevant eMedNY edits, as well as State and Federal rebate policy.

Recommendation #9

Evaluate and, as appropriate, modify the relevant eMedNY edits to reject adjustment physician-administered drug encounter claims with an invalid or a missing NDC.

Response #9

The Department has initiated an eMedNY inquiry to determine if there is any systematic logic that inappropriately allows an adjusted physician-administered drug encounter claim to bypass the edit that requires the claim be denied without a submitted NDC. Based on the results of the inquiry, the Department will determine an action plan and/or what system changes are needed, if any.

Recommendation #10

Consider establishing a process to require MCOs to report NDC information on all physician-administered drug encounters.

Response #10

By February 2015, the Department will complete an assessment on whether to require Managed Care Organizations (MCO) to report NDCs on all physician administered encounters. Should this assessment determine a change in current policy, the Department will develop an action plan accordingly.

Recommendation #11

Provide training and assistance to MCOs regarding the proper submission of encounters, including reporting of NDC information.

Response #11

The Department has informed the plans, as recently as January 2015, of the importance of resubmitting their identified rejected pharmacy encounter records and of including NDC information on the submission of physician administered encounter records as it pertains to this audit. In an August 2012 Medicaid Update, plans were notified to require all network providers to report the NDC on the claim when billing physician administered drugs. The Department plans to reissue the instructions in the February 2015 Medicaid Update.

Recommendation #12

Prospectively collect drug rebates for all eligible physician-administered drugs paid for by MCOs.

Response #12

The Department will continue to prospectively invoice and collect drug rebates on all physician administered drugs paid for by the MCOs in accordance with Federal and Department rebate policy.

State Comptroller's Comments

1. As detailed in the Background (p. 5) of the report, the federal government typically funded about 49.25 percent of New York's Medicaid program, and the State and its localities funded the balance, about 50.75 percent. As such, we acknowledge that the rebates in question would be shared among those governmental entities in proportion to their respective funding contributions to the program. Moreover, although a significant portion of the rebates identified would be allocated to the federal government, the State and its localities would receive tens of millions of dollars from such rebates.
2. We revised our report to state the Department did not collect the available rebates we identified as part of our audit.
3. We revised our report, as appropriate, to note the target set by the Department to invoice the \$9.7 million in rebates in question.
4. We revised our report, as appropriate, to note that officials are in the process of evaluating whether the Department should expand its pursuit of rebates to all categories of service.
5. As stated on page 7 of our report, the Department does not retain data for rejected encounter claims that are more than two years old. Given the absence of such data, we conservatively estimated (as detailed in the report) that there were about \$16 million in uncollected rebates for the period from October 2011 to July 2012. Further, we commend the Department for requesting managed care plans to identify and resubmit rejected encounter claims for this time period.