STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

June 6, 2005

David R. Hancox
Audit Director
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Hancox:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's follow up audit report 2004-F-39 entitled "Multiple Medicaid Payments for Newborn Services."

Thank you for the opportunity to comment.

Sincerely,

Dennis P. Whalen
Executive Deputy Commissioner

Enclosure

cc: Mr. Griffin
Mr. Howe
Ms. Kuhmerker
Ms. Kutel
Mr. Reed
Mr. Seward
Ms. Shure
Mr. Van Slyke
Mr. Wing

Department of Health Comments on the Office of the State Comptroller's Follow Up Audit Report 2004-F-39 Entitled "Multiple Medicaid Payments for Newborn Services"

The following are the Department of Health's (DOH) comments in response to the Office of the State Comptroller's follow-up audit 2004-F-39 entitled "Multiple Medical Payments for Newborn Services."

There are no comments included for recommendation #2 and recommendations #5 through #7 as they were determined to have been fully implemented.

Recommendation #1:

Investigate the $27.3 million in Medicaid payments to hospitals and recover all inappropriate overpayments. Ensure that MCOs pay these hospitals in a timely fashion for bills submitted for the newborn services addressed in this audit.

Response #1:

During the course of the Department's review, the hospitals all raised the issue of Graduate Medical Education (GME) payments. If a Medicaid recipient is enrolled in a Managed Care Organization (MCO) and receives inpatient hospital services, the GME rate is paid separately by the State directly to the hospital. Therefore, if a hospital does not receive a Diagnostic Related Group (DRG) payment, they may bill Medicaid using a GME rate. Because all claims in the audit were over two years old, the GME payment cannot be billed as a new claim. To receive the GME payment, the hospitals have to adjust their claims through Computer Sciences Corporation. The audit also consisted of claims which were over six years old, which cannot be adjusted through the system.

In many cases, the GME payment is greater or equal to the DRG rate. We are in the process of summarizing for each hospital the difference in the DRG amount (audit amount) and the GME payment. Based on this summary, we will determine a settlement amount based on amounts due from and due to the hospital.

Recommendation #2:

Evaluate the $22.1 million in Medicaid kick payments to MCOs and recover any inappropriate kick payments.

Response #2:

The Department's Office of Medicaid Management (OMM) has undertaken a project to recover from hospitals the fee-for-service claims paid by Medicaid for newborn services that should have been paid by the Managed Care Plans. It is necessary to wait and review the findings and recoveries of this project to avoid duplicating the same recoveries in the $22.1 million in kick payment claims identified in this recommendation.

OMM initiated an audit recovery from MCOs of kick payments that have no correlating encounter data for the period March 1, 1999 to September 30, 2004. Many of the potential recoveries identified by OSC are likely included in the current projects.

Regarding kick payments to MCOs prior to the MCOs paying the hospital, many of the MCOs have contended that this is proper action and they are only required to verify that the payment to the hospital was eventually made. OMM will evaluate the cost effectiveness of pursuing this finding on two bases:

- Legally, is the MCOs interpretation correct regarding when they can bill Medicaid for their kick payment?

- There is likely no Medicaid recovery applicable to this finding. The MCO has the right to bill Medicaid for a kick payment when the MCO eventually paid the hospital. This finding does not contest whether the MCO paid the hospital, only the timeliness of when the MCO and hospital were paid.

Recommendation #4:

Timely update EMEVS data to enable hospitals to access current MCO enrollment information when they bill for newborn service costs.

Response #4:

The technical design document for eMedNY addresses the new system edits for Electronic Medicaid Eligibility Verification System (EMEVS) which was implemented in April 2005. Furthermore, with Phase II of eMedNY, MCO data will be updated on a daily basis rather than weekly.