



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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 14, 2008

Hon. Thomas P. DiNapoli
Comptroller
State of New York
110 State Street
Albany, New York 12236

RECEIVED
EXECUTIVE CORRESPONDENCE

MAY 15 2008

OFFICE OF THE STATE COMPTROLLER
THOMAS P. DINAPOLI
COMPTROLLER

Dear Comptroller DiNapoli:

Pursuant to the provisions of Section 170 of the Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2007-S-88 on "Inappropriate Medicaid Payments for Pharmacy Services While Recipients Reside in Nursing Homes."

Sincerely,

A handwritten signature in black ink that reads "Richard F. Daines".

Richard F. Daines, M.D.
Commissioner of Health

Enclosure

**Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2007-S-88 on
“Inappropriate Medicaid Payments
for Pharmacy Services
While Recipients Reside in Nursing Homes”**

The following are the Department of Health’s (Department) comments in response to the Office of the State Comptroller’s (OSC) final audit report 2007-S-88 on “Inappropriate Medicaid Payments for Pharmacy Services While Recipients Reside in Nursing Homes”, including a general comment followed by responses to the specific recommendations contained in the report.

General Comment:

The Department, recognizing that discharge planning begins prior to actual discharge, will develop and implement policy allowing for prescriptions to be filled for home use within three days of discharge. This policy will ensure timely access to necessary medications following discharge.

Recommendation #1:

Review the \$2,072,022 in payments we identified and recover inappropriate payments.

Response #1:

The Office of the Medicaid Inspector General will review the payments identified and pursue recoveries where appropriate. It’s relevant to note that the audit findings have confirmed the effectiveness of the edit that prevents the payment of pharmacy claims for nursing home residents, whenever the proper admission/discharge information is on file.

Recommendation #2:

Work with the Local Department of Social Services Medicaid offices and nursing homes to ensure the timely updating of admission and discharge information in the Principal Provider file in eMedNY.

Response #2:

Prior to entering beneficiary-specific information into the Principal Provider file, the Local Department of Social Services (“local district”) must determine if the beneficiary is eligible for Medicaid coverage of nursing facility services, including a determination that the beneficiary and their spouse did not make a prohibited transfer of assets within the past 36 months. There is no 36-month look-back, nor is documentation of current

resources required, for Medicaid community coverage without community-based long-term coverage. The additional eligibility requirements for coverage of nursing facility services often requires the local district to request resource documentation from the beneficiary or their representative, delaying their ability to make the eligibility determination.

The Department has discussed the importance of making timely eligibility determinations with the local districts, and will follow-up with a General Information System notice reminding all local districts of the need to promptly update the Principal Provider File for nursing home admissions and discharges. The Department will additionally reinforce with nursing homes the need to promptly notify the local district when a Medicaid beneficiary is admitted to or discharged from their facility.

Additionally, implementation of the Medicare Part D drug benefit during the latter portion of the audit period had a significant impact on Medicaid drug payments for beneficiaries with both Medicaid and Medicare coverage. The Department will internally review the implications of Part D coverage relative to the audit issues, including the role/responsibility of nursing homes, and if warranted, will include a relevant article in an upcoming edition of its monthly Medicaid Update provider publication.