



## Department of Health

ANDREW M. CUOMO  
Governor

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

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Executive Deputy Commissioner

May 15, 2017

Ms. Andrea Inman  
Audit Director  
New York State Office of the State Comptroller  
110 State Street, 11<sup>th</sup> Floor  
Albany, New York 12236

Dear Ms. Inman:

Pursuant to the provisions of Section 170 of New York State 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 2015-S-14 entitled, "Reducing Medicaid Costs for Recipients with End Stage Renal Disease."

Please feel free to contact Amy Nickson, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

Howard A. Zucker, M.D., J.D.  
Commissioner of Health

Enclosure

cc: Ms. Nickson

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Final Audit Report 2015-S-14 entitled, Reducing Medicaid Costs for  
Recipients with End Stage Renal Disease**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2015-S-14 entitled, "Reducing Medicaid Costs for Recipients with End Stage Renal Disease."

**Background**

New York State (NYS) is a national leader in its oversight of the Medicaid Program. The Office of the Medicaid Inspector General (OMIG) conducts on-going audits of the Medicaid program and managed care plans. The Department and OMIG will continue to focus on achieving improvements to the Medicaid program and aggressively fighting fraud, waste and abuse.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality of 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 1,475,319 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient decreased to \$8,305 in 2015, consistent with levels from a decade ago.

**Recommendation #1:**

Implement a process to identify and notify recipients with an ESRD diagnosis to apply for Medicare coverage. Instruct the recipients on how and where to apply for Medicare.

**Response #1:**

The Department has initiated a project that will identify recipients with an End Stage Renal Disease (ESRD) diagnosis and will provide them with a letter informing them on how and where to apply for Medicare, as well as notifying them that Medicaid may pay for their Medicare Part B premiums. This process is expected to begin October 2017.

**Recommendation #2:**

Develop an outreach program that educates and encourages ESRD-related providers and other stakeholders to proactively inform Medicaid recipients with ESRD about Medicare benefits, inform recipients about State MSP opportunities, and actively assist recipients apply for Medicare.

**Response #2:**

The Department took steps to publish educational information on its website for use by stakeholders who may have the opportunity to inform and assist Medicaid recipients with ESRD in applying for Medicare. The educational information was published on April 7, 2017.

### **Recommendation #3:**

Monitor and follow up with recipients who do not apply for Medicare and facilitate their enrollment by developing and implementing processes that include, but are not limited to:

- Identifying recipients' qualifying relations (spouse, parent),
- Obtaining recipients' qualifying credits (QCs) data from SSA,
- Ascertaining whether Medicaid recipients diagnosed with ESRD are potentially eligible for Medicare, and
- Sending follow-up notifications to recipients informing them of their apparent Medicare eligibility.

### **Response #3:**

The Department is actively taking steps to acquire contractor assistance for outreach to all Medicaid recipients with an ESRD diagnosis who are not enrolled in Medicare. This outreach process will provide information about Medicare benefits, how and where to apply, and the potential for Medicaid to pay the cost of the Medicare premiums through the Medicare Savings Program (MSP). Additionally, it will provide customer service assistance, including Medicare application assistance and scheduling appointments with the Social Security Administration (SSA). It will also monitor, track and assess Medicare eligibility outcomes. Implementation is dependent on successful execution of a contract, which is currently anticipated to occur in or around April 2018.

### **Recommendation #4:**

If SSA clarifies or amends its rules for uncooperative individuals to include ESRD recipients:

- Collect and submit the documentation required for SSA to make an ESRD Medicare eligibility determination for recipients with the necessary QCs who do not apply for Medicare, and
- Design and implement new processes to effectuate Department requests for Medicare enrollment and buy-in for eligible ESRD recipients who do not apply for Medicare.

### **Response #4:**

Current SSA policy only allows states to submit proof of Part B eligibility for a Medicaid recipient that meets all four of the factors listed below:

- Uncooperative in applying for Medicare;
- Over age 65;
- Resident of the United States (US); and
- US citizen or meets the necessary alien requirements.

Like any rule and/or policy change, if SSA modifies its rule and allows states to prove Part B eligibility in the future for uncooperative Medicaid recipients with ESRD regardless of age, the Department will assess the implications of the rule change and take appropriate actions at that time.

**Recommendation #5:**

Recover claims paid for any retroactive Medicare enrollments of Medicaid recipients diagnosed with ESRD.

**Response #5**

OMIG will continue to review claims paid for any retroactive Medicare enrollments of recipients, and pursue recoveries of overpayments where appropriate.