



## Department of Health

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Governor

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

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Executive Deputy Commissioner

February 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 2016-S-4 entitled, "Improper Episodic Payments to Home Health Providers."

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 2016-S-4 entitled, Improper Episodic Payments to  
Home Health Providers**

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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 2016-S-4 entitled, "Improper Episodic Payments to Home Health Providers."

**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.

**General Comments**

The issues cited in the audit were potential issues that were identified and vetted during the construction of the Episodic Payment System (EPS) with the Department of Health's (Department) Division of Payment Systems and the Department's billing contractor staff (eMedNY).

The concern over the potential for overlapping billing for the same patient served by two or more different Certified Home Health Agencies (CHHAs) was raised internally, and also raised by CHHA providers who, under the Medicare Prospective Payment System (PPS), are able to utilize an interactive system supplied by the Centers for Medicare and Medicaid Services (CMS) to track patients in an effort to avoid these issues. NYS EPS does not have a similar interactive system on the State level. Absent such a mechanism, the use of billing edits to deny the overlapping claim would in almost all cases have the undesirable result of penalizing the second CHHA, who was likely submitting a valid claim. This was documented as an area to evaluate for potential review on post-adjudication audit.

The concern over the potential for overlapping payments to the same CHHA for the same patient was also considered. Edits were put in place at the outset to ensure that duplicate payments could not be paid for multiple episodes with the same "from" and "through" dates, for the same patient, at the same CHHA. However, that edit could not be fashioned in a way that insured that a partial claim paid as a full episode would not result in an overlapping payment when a CHHA billed incorrectly with the inaccurate discharge status code. This is because the partial claim only identifies the "from" and "through" dates of service for the partial period. This also was documented as an area to evaluate for potential review on audit.

Finally, the potential for overlapping payments when a partial episode is paid as a full because the CHHA incorrectly billed the wrong discharge code upon (Managed Long Term Care) MLTC

enrollment, was also a concern. That is why CHHA providers were strongly advised in the NYS Department billing guidelines to insure that the discharge status was accurately completed on a claim, particularly for MLTC enrollment situations. This too was documented as an area to evaluate for potential review on audit.

Given the complexity of the issue, the Department will ensure that a “back end fix” will be put in place and that all potential over payments will be fully recovered.

### **Recommendation #1**

Review the \$16.6 million in improper payments made to CHHAs and recover overpayments, as appropriate. Ensure prompt attention is paid to those providers that received the largest dollar amounts of overpayments.

### **Response #1**

OMIG has performed analysis on the supplied OSC data. Due to the complexity of the claims and services provided, OMIG extracted their own data and are performing additional analysis, and has met with the Department to determine an appropriate course of action. OMIG will pursue recovery of any payment determined to be inappropriate.

### **Recommendation #2**

Develop and implement mechanisms to identify and recover overpayments when CHHAs do not bill according to Department guidelines.

### **Response #2**

The Department prepared guidance regarding Certified Home Health Agency (CHHA) billing rules which was released to CHHA providers during the first week of February 2017. This guidance will also be included in the February 2017 Medicaid Update.

The Department met with staff from the New York Medicaid Management Information System (NYMMIS) to discuss the overpayment issues and potential programming requirements needed to update the existing claiming edits. NYMMIS has provided an outline of the existing claiming edits for Department review. The Department will review the existing claiming edits and suggest appropriate changes to mitigate the possibility of overpayments going forward.