



Department of Health

ANDREW M. CUOMO
Governor

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

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

January 22, 2019

Ms. Andrea Inman, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Follow-Up Audit Report 2018-F-26 entitled, "Medicaid Payments for Pharmacy Claims – Joia Pharmacy and a Related Prescriber" (Report 2013-S-4).

Thank you for the opportunity to comment.

Sincerely,

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

Enclosure

cc: Marybeth Hefner
Donna Frescatore
Dennis Rosen
Erin Ives
Brian Kiernan
Timothy Brown
Amber Rohan
Elizabeth Misa
Geza Hrazdina
Daniel Duffy
Jeffrey Hammond
Jill Montag
Ryan Cox
James Dematteo
James Cataldo
Jessica Lynch
DOH Audit SM

**Department of Health
Comments on the
Office of the State Comptroller's
Follow-Up Audit Report 2018-F-26 entitled, Medicaid Payments for
Pharmacy Claims – Joia Pharmacy and a Related Prescriber (Report
2013-S-4)**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Follow-Up Audit Report 2018-F-26 entitled, "Medicaid Payments for Pharmacy Claims – Joia Pharmacy and a Related Prescriber (Report 2013-S-4)."

Recommendation #1:

Review the Medicaid payments made to Joia and recover any improper payments, as warranted.

Status – Implemented

Agency Action - The Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments on behalf of the Department. According to OMIG officials, most of the Medicaid payments made to Joia during the audit scope were no longer recoverable due to regulatory look-back rules that prohibit the Department from recovering a payment more than six years after the claim was filed. Of the remaining claims that OMIG reviewed, OMIG found minimal problems. As a result, OMIG determined that no recoveries were warranted.

Response #1:

The Department confirms agreement with this report.

Recommendation #2:

Formally review and assess the factors that led to Joia's submission of the improper claims. Take actions, as warranted, to remediate any improper policies and practices that are identified. Such a review should include determining whether the pharmacy – under the new ownership – and its employees have corrected any such deficiencies.

Status – Implemented

Agency Action - As described in the Agency Action section of Recommendation 1, OMIG's review of the pharmacy's claims resulted in minimal findings. As such, OMIG determined no remediation actions were warranted.

Response #2:

The Department confirms agreement with this report.

Recommendation #3:

Follow up on all other matters identified in this report, including having a Department physician review the issues involving the Doctor, and take appropriate action, as warranted.

Status – Partially Implemented

Agency Action - Our initial audit identified other practices of Joia and the Doctor that warranted further review. With Joia, we found: a lack of supporting documentation for claims billed; billing for controlled substances in quantities greater than allowed by the State Controlled Substances Act; questionable electronic pick-up signatures on prescriptions; and claims for medication that had labels with inaccurate directions. Regarding the Doctor, we found that some patients received a questionable volume of prescriptions and/or possible conflicting medications.

After our initial audit, OMIG reviewed a sample of patients with a high number of claims and prescriptions from the Doctor. The review, which was done by a Registered Nurse, focused on the appropriateness of care and looked for instances of patient harm. A report documenting the conclusions of the review was provided to our auditors. The report concluded that it was not unusual for the Doctor to prescribe numerous (20 or more) medications for patients in a single day, as many of them had severe health issues and/or were elderly.

OMIG officials also reviewed some of the other issues we identified at Joia. According to OMIG officials, they subpoenaed and reviewed a large number of prescriptions and pharmacy logs. Although OMIG's review did not result in findings, we note that its review did not include all of the other issues we identified in our initial audit. For example, OMIG did not perform a review of the controlled substances that we found were dispensed in quantities greater than allowed by the State Controlled Substances Act. Further, OMIG's review did not determine if prescriptions with questionable pick-up signatures were actually picked up by the intended recipients. OMIG also did not review the medication labels with incorrect or incomprehensible directions, which could have a significant impact on patient health and safety.

Response #3:

As the OSC stated, the OMIG completed its review and determined that no recoveries or remediation actions were warranted.

Recommendation #4:

Assess the appropriateness of the providers' (pharmacists and physicians) future participation in the Medicaid program. This assessment should also address the propriety of referring any of the providers to SED's Office of the Professions.

Status – Implemented

Agency Action - OMIG's review of Medicaid payments to Joia (see the Agency Action section of Recommendation 1) and the issues related to the Doctor (see the Agency Action section of Recommendation 3) resulted in minimal findings. Based on the claims that OMIG reviewed, it determined that no further action regarding the providers' participation in the Medicaid program was needed.

Response #4:

The Department confirms agreement with this report.