
**Alan G. Hevesi
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

DIVISION OF STATE SERVICES

DEPARTMENT OF HEALTH

**IMPLEMENTATION OF
eMedNY
(CONTRACT C014305)**

Report 2005-R-3

AUDIT OBJECTIVES

The objectives of this financial-related audit were to determine whether eMedNY contract deliverables were provided on time and within budget; whether contract-related payments were supported and appropriate; and whether the Department of Health (Department) provided adequate oversight of Computer Sciences Corporation (CSC), the State's eMedNY contractor. Our audit scope period was May 1, 2000 through June 30, 2005 for contract payments, and through September 20, 2005 for contract deliverables.

AUDIT RESULTS - SUMMARY

In the Spring of 2000, the Department awarded contract C014305 to CSC, which has historically served as the State's Medicaid fiscal agent, to provide and implement the eMedNY system. The objective of eMedNY was to provide an enhanced Medicaid eligibility and claim payment system; and a data warehouse to archive Medicaid-related data. The total value of the contract, which covers the period May 1, 2000 through June 30, 2006, is \$376 million.

- We found that both the replacement Medicaid system and the data warehouse, the contract's two major deliverables, have been developed and implemented. Although system implementation was long delayed, and involved unanticipated added costs, eMedNY has been processing Medicaid claims since March 2005. However, we also found that CSC has yet to provide two other significant contract deliverables: a fraud detection and prevention program; and read and copy access by authorized personnel to

the adjudicated claims file. As a result, system auditors do not have the most effective and efficient technology available to efficiently detect and prevent Medicaid fraud. [Pages 4-6]

- The additional costs incurred by the Department as a result of CSC not completing the major deliverables in compliance with contract timeframes totaled \$166.4 million. Instead of assessing penalties on CSC as provided for by the contract, the Department has prepared a plan to compensate CSC for the additional internal costs it has incurred as a result thereof. We recommend Department officials revisit their position on this issue to determine whether the best interests of all parties, including the taxpayers, will be served by this plan. [Page 8]
- Our tests of 13 invoices (\$51 million) determined that all sampled fixed payments were accurate and supported. However, we found the Department received only limited support documentation for its variable payments. [Pages 7-9]
- Based on the results of our audit we conclude that the Department's oversight practices need improvement. [Pages 9-10]

Our report contains six recommendations related to the completion of contract deliverables, the contractor billing review process, and the imposition of penalties. Department officials agreed with some of our conclusions and recommendations, but disagreed with others. Excerpts from the Department's response have been included in the body of this report.

This report, dated December 14, 2006, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

In March 1998, the Department issued a Request for Proposal (RFP) for an updated and enhanced Medicaid eligibility and claim payment system (eMedNY). In April 2000, the Office of the State Comptroller (OSC) approved the contract for this project, which the Department granted to Computer Sciences Corporation (CSC), the State's historical Medicaid fiscal agent. The contract, which covers the period May 1, 2000 through June 30, 2006, had an original value of \$357 million. Subsequent contract amendments increased the total contract amount to \$376 million, of which \$217.3 million has been paid to date. The Department also contracted with another firm (BearingPoint) to perform quality assurance reviews of eMedNY project deliverables for the period March 31, 2000 through December 31, 2005.

The contract's two major deliverables are a replacement Medicaid system and a Medicaid data warehouse. The replacement Medicaid system was to combine and enhance the functions of the Department's pre-existing legacy systems: the Electronic Medicaid Eligibility Verification System, which verified client eligibility for Medicaid; and the Medicaid Management Information System (MMIS), which processed and paid provider claims. The data warehouse is to maintain archived Medicaid data, such as client eligibility; provider data; and

adjudicated claims (i.e., claims for which payment has been approved or denied). Department and authorized audit personnel would be able to readily access this data for various analyses. The contract also requires CSC to provide certain other deliverables, including a new fraud detection and prevention program by April 2005; and limited access, for audit purposes, to the adjudicated claims file to identify inappropriate payments.

There were significant delays in the implementation of the replacement Medicaid system and the data warehouse. The data warehouse, which was to be implemented by November 1, 2001, was not in place until September 26, 2003, more than 23 months later. The replacement Medicaid system, designed to be implemented in two phases, was also delivered late: Phase 1 completion, scheduled for July 1, 2001, did not occur until November 16, 2002; and Phase 2 implementation, scheduled for July 1, 2002, was not completed until March 24, 2005. Both the Department and CSC took responsibility for the implementation delays, attributing them to a number of factors, including the impact of the September 11 terrorist attacks, and management personnel changes at CSC. Because of the implementation delays, the Department incurred additional costs totaling \$166.4 million. These additional costs were related to maintaining and operating the pre-existing legacy systems; making the MMIS compliant with Federal privacy requirements; and extending the BearingPoint quality assurance contract.

CSC submits periodic invoices to the Department for its work performed under the contract. Some of the payments made to CSC are fixed, based on amounts stated in the contract (e.g., system implementation costs); while other payments are variable, based on

volume (e.g., transaction processing costs). CSC submits limited supporting documentation with the invoices and the Department approves these invoices before payment is made.

According to Department officials, CSC has proposed, and the Department is considering, extending the contract period for an additional three years. Department officials stated they need this much time to properly prepare for re-bidding the contract. Once eMedNY is operational for six months, it is eligible for certification by the Federal Centers for Medicaid/Medicare Services. In fact, Department officials advised us that the certification process was completed on February 3, 2006, and reportedly went well. Department officials are waiting for a letter of clearance. Certification will entitle the Department to 90 percent federal reimbursement for implementing the system, 75 percent federal reimbursement for operating the system, and 50 percent reimbursement for processing claims.

AUDIT FINDINGS AND RECOMMENDATIONS

Contract Deliverables

We found that the replacement Medicaid system and the data warehouse, the contract's two major deliverables, have been developed and implemented. Although implementing the system was long delayed and involved unanticipated added costs, eMedNY has been processing the State's Medicaid claims since March 2005. However, we also found that CSC has yet to provide two other significant contract deliverables: a fraud detection and prevention program; and audit access to the adjudicated claims file. As a result, authorized personnel (i.e. Department, OSC, etc.) may not have the tools and access they need to efficiently detect and prevent Medicaid fraud

and other questionable transactions. Under the terms of the contract, the Department has the right to assess penalties when contract deliverables have not been implemented. To date, the Department has chosen not to assess any such penalties.

Fraud Detection and Prevention Program

The contract requires CSC to develop and implement an advanced Fraud Detection and Prevention Program (Program) as a component of the eMedNY system. The objective of the Program is to look for new techniques to identify patterns of fraudulent and wasteful claims; to review and assess the effectiveness of current Medicaid fraud control procedures; and to develop ways to identify and measure the effects of fraud, with special emphasis on cost avoidance methodologies that prevent fraudulent and wasteful claims. These methodologies were to include various techniques (random selection and testing of claims; payment aggregate monitoring tools, etc.). In developing this Program, CSC was obligated to coordinate with the Medicaid Fraud Control Unit of the Office of the Attorney General; with Department staff who conduct provider audits and who use claims extract files; and with the Office of the State Comptroller (OSC). Once the Program was developed, the contract required that the Program be reviewed and approved by the Department and OSC within 30 calendar days of the start of full Replacement Medicaid Systems operations. Finally, CSC was to report Program results on a quarterly basis. CSC agreed to meet these requirements by the timeframe stated in the contract.

We found the contractor had not delivered the Program, as required.

- The Program, which should have been in place by the end of April 2005, was still being developed during our field work.
- OSC and the Office of the Attorney General had not been contacted by CSC about the Program; rather, CSC has been working exclusively with the Department in developing the Program.
- No quarterly reporting has been initiated.

Department officials told us they are working with CSC to develop and implement the Program and to determine what type of quarterly reporting the Department is interested in receiving. However, we found there is no documentation to support this assertion.

Currently, CSC has dedicated one person to work on the Program. This CSC staff works 40 percent under Department direction to identify high-risk Medicaid providers, and 60 percent under CSC direction on Program initiatives, which involves working on problem-specific queries designed to detect fraudulent claims. When queries identify potentially fraudulent claims, the claims are referred to the Department's Bureau of Investigations. Since April 2005, CSC has sent several referrals to the Department.

It is important to note that the Department has other tools and techniques available, apart from the Program, for monitoring transactions to identify questionable provider payments. For instance, the CSC subcontractor that maintains the data warehouse has developed certain data mining applications. At the Department's request, the subcontractor uses these applications to produce a report, which the Department can access, to evaluate the potential for fraud. The Program, however, as defined by the contract, was to be developed by CSC, working cooperatively with other

entities, to devise new techniques that would supplement these other Department fraud-detection efforts. Relying solely on ad hoc queries is not an effective substitute for the Program required by the contract.

To help ensure that auditors have the tools they need to detect and prevent fraudulent payments, the Department should require CSC to implement a comprehensive fraud Program as required by the contract, and to produce Program-related policies and procedures.

Adjudicated Claims History File

The contract states that the contractor must ensure that the Replacement Medicaid System facilitates auditing of individual transactions. One contract deliverable intended to facilitate this auditing function enables authorized personnel to have read and copy access to the adjudicated claims history file. With such access, auditors can perform various tests of transactions to verify the accuracy and legitimacy of processed claims before they are paid. Such testing includes using electronic audit programs to generate audit modules to perform random or "spot" quality control audits on all claims processing and related files. CSC agreed to meet this contract requirement.

We note that OSC auditors had this type of access to adjudicated claims processed by the Legacy system, and used this access to perform routine audits of provider claims.

In their response to the RFP, CSC management stated they recognized the need for auditors to have read and copy access to pertinent Medicaid data, and OSC's authority to require that certain specific testing occur prior to the release of any claim payments. CSC management further indicated they would make resources available to enable

OSC audit staff to perform payment audits, as well as other integrity tests for files used in the adjudication process.

CSC and Department officials told us they believe CSC has provided this deliverable in eMedNY, and that OSC auditors have the necessary access to perform their audit function. However, OSC staff responsible for performing this function contend it has not received this deliverable to date because Department and CSC proposals for meeting this deliverable do not provide the extent of access to provider claims OSC auditors need before payment is made.

For example, the Department believes its Surveillance Utilization Review System Analytical Claims Extract file contains the information that OSC needs. However, since this extract file contains only weekly post-processed information, the information it contains is not useful for payment analysis purposes.

CSC provides OSC access to eMedNY through a Graphical User Interface, which enables auditors to retrieve a single claim or several claims at a time. However, OSC auditors assigned to this purpose report that retrieving files using this process is an inefficient and tedious way to extract claims data. CSC has also made it possible for OSC to access claims through the data warehouse. This is a work-around approach to the read and copy access the contract requires. This work-around is not a valid alternative, however, as follows:

- Auditors cannot rely on the accuracy and completeness of data warehouse information as it is not reconciled to initial input on a character-by-character basis. Therefore, data warehouse information may not be a mirror image of the data of the actual adjudicated claims. For

example, several services provided by a provider to a client over a period of days may show up in the warehouse as all being provided on one day. Reporting all such services on one day might be an “audit worthy” transaction as opposed to noting that they are provided over several days - which would not seem unusual.

- Available audit tools cannot be applied to data warehouse information. The audit software packages OSC uses are not compatible with data warehouse applications.

As such, the above limited access and work-around approaches do not provide OSC auditors the read and copy access they need to audit claims as desired (i.e., before they are paid). Further, they do not meet OSC’s expectations, in general, that the contractor would provide access that would be at least the equivalent of the access OSC had with the legacy system. Without appropriate access, OSC cannot perform, as efficiently as possible, its authorized audit function.

We also note that other audit entities have concerns about using data warehouse information. For instance, according to a letter to the Department from the Office of the Inspector General (OIG) of the Federal Department of Health and Human Services, the OIG is experiencing problems with using data warehouse files for its audit functions. As with OSC, the OIG needs access to eMedNY’s mainframe application to efficiently examine the large amounts of data it is required to review.

Recommendation

1. To ensure CSC provides the required contract deliverables:

- Require CSC to develop and implement the fraud detection and prevention program in compliance with contract terms.
- Ensure CSC develops and formalizes the associated quarterly reporting.
- Determine whether penalties against CSC are warranted for the contractor's failure to develop and implement the Program as required. Assess penalties as appropriate.
- Grant OSC read and copy access to the adjudicated claims file needed to properly perform its mandated audit function.

(Regarding the first three points, Department officials asserted that although finalized and formally documented in late January 2006, the required Fraud Detection and Prevention Program as described above has been in effect since April 2005, and is in compliance with contract terms. Since they believe the required Program has been developed and implemented, Department officials are not willing to assess any penalties on CSC for this purpose. As noted in our report, while some progress had been made toward developing the Program, it had not been fully developed and implemented in accordance with the requirements set forth in the contract and agreed to by CSC. For example, had this been the case, the Program would have been submitted to OSC for review and approval which, as of the time of our audit, it had not.

Regarding the fourth point, Department officials believe alternative pre - and post-payment claims research tools are available, and that it is incumbent on OSC staff to develop the skill sets necessary to use them. We note, however, that the limited access and work-around approaches described by the Department and CSC in their response do not

provide OSC auditors the read and copy access needed for OSC to independently perform its authorized function as efficiently as possible. Although current adjudicated claims information is available immediately at the close of each payment cycle, this information is available for only one week (cycle) of adjudicated claims history. Such limited data is not useful for analytical purposes. To adequately perform audits of provider claims, OSC auditors require historical claims information that spans several months or years. It is not acceptable for OSC to rely on CSC to create structured query language (SQL) utilities to facilitate our access to historical data. To maintain our independence, OSC requires complete and unhindered read and copy access to eMedNY's entire claims adjudication information, at least equivalent of the access OSC had with the legacy system. Regarding the availability of other mainframe audit tools to access all eMedNY systems, such tools present information for only a few claims at a time, are very limited, and do not provide the means for any in depth analysis.)

Support for Contract Payments

During the period May 1, 2000 through June 30, 2005, the Department paid 233 contractor invoices totaling \$167.4 million. Our tests of 13 invoices (\$51 million) determined that all sampled fixed payments were accurate and supported. However, we found the Department received only limited support documentation for its variable payments. Without adequate documentation of these invoiced amounts, the Department has no assurance it is paying for legitimate costs.

Contract-Related Payments

The Department is responsible for approving contract billings and for ensuring the accuracy and integrity of the associated payments. The

transactions for which CSC invoices the Department include:

- fees for processing daily Medicaid transactions;
- evolution payments for work performed on projects that still need to be incorporated into the eMedNY system;
- fixed administrative fees for items such as personnel costs, building security and computer operations;
- payments for implementing eMedNY system components;
- postage reimbursement fees; and
- fees for providing terminals to system users (e.g. Medicaid providers).

Some of the above payments are fixed based on a payment schedule stated in the contract. The Department approves these fixed payments, such as implementation payments, when the deliverable has been met. Other Department payments are classified as variable, such as transaction fees, based on volume and productivity. To ensure the accuracy and integrity of all contract billings, the Department should obtain and review adequate supporting documentation before approving payments.

We selected a sample of 13 of the 233 contractor invoices the Department paid during the period May 1, 2000 through June 30, 2005. The sample was judgmentally selected to include both fixed and variable payments: 10 invoices were for fixed payments (e.g., fixed administrative fees and implementation payments), and 3 invoices were for variable payments, specifically, postage reimbursement fees; transaction fees; and evolution payments. We found that, for

the ten invoices involving fixed payments, the Department had sufficient documentation to support payment approval.

However, when we tested the three invoices involving variable payments, we found that the Department did not receive adequate documentation from the contractor to support the accuracy and legitimacy of the billed amounts. These variables included one invoice for postage reimbursement; one invoice for fixed transaction fees; and one evolution-related billing. Although we ultimately determined that CSC had adequate support for these invoices, the Department had not asked for or reviewed this support prior to approval. Instead, the Department requires CSC to provide only summary data with invoices for variable payments. As a result, Department officials have no assurance that invoiced amounts for variable costs are accurate or appropriate prior to payment approval.

Department staff told us they know they can request supporting documentation at any time, but do not do so because the detail is voluminous. However, the Department should not rely solely on CSC's computer-generated summary information to support variable payments. To obtain assurance that CSC's invoiced amounts for variable charges are reasonable, the Department should periodically review and verify the support for such charges on a sample basis.

Department officials have also agreed to pay the contractor for what we conclude are unnecessary additional costs. While the Department appropriately reduced CSC's fixed operations compensation for its delay in implementing the data warehouse, the Department has agreed not to penalize CSC for the delays in implementing the replacement Medicaid system. In fact, Department officials have proposed to

compensate CSC for some of the additional fixed operations costs the contractor reported it incurred during the delay in making the replacement Medicaid system operational. The amount of proposed compensation had not been finalized.

We believe the Department should not reimburse CSC for fixed costs incurred as a result of this implementation delay. CSC was compensated to continue to operate the legacy systems during the delay period under its prior MMIS contract. Under the eMedNY contract, CSC was not entitled to reimbursement for any additional fixed costs until eMedNY was fully operational. Since the Department incurred \$166.4 million in extra costs as a result of the implementation delay, Department officials should revisit the decision to pay CSC additional compensation to which it is not entitled under the contract.

Department officials agree with our observations regarding their billings review practices and stated that procedures are now being developed to address these issues.

Reasonableness of Fixed Administrative Costs

Before awarding the contract, the Department required bidders to submit a pricing schedule based on estimates that identified, by category, the proposed charges for specific fixed administrative costs for operating eMedNY. Bidders were to detail the following cost categories: all replacement Medicaid system operating costs (such as personnel, equipment and facility costs); data warehouse operating costs; transaction processing (the fixed rate per transaction); and evolution project work (a fixed schedule of time charges based on employees' titles). The contract requires the contractor to provide the Department with monthly reports of actual expenditures related to these fixed

administrative costs. Using the monthly reports, the Department would be able to compare CSC's actual costs, per category, to the pricing schedule to verify the reasonableness of the contractor's estimates.

We found that CSC does not provide the Department with monthly reports of actual revenues and expenditures related to these individual fixed cost categories. Instead, CSC combines all four cost categories in its monthly reports.

We asked CSC to break out the four components of its monthly fixed administrative fee so we could review the reasonableness of amounts charged and compare them to the estimated figures. However, CSC informed us that it was unable to readily segregate its operating costs by category because it does not track costs in this manner. Since CSC does not track fixed administrative costs according to the categories identified in the pricing schedule, the Department cannot assess the reasonableness of the billings nor compare them to the original estimates as noted in the contract award. The result of which could be useful in developing future cost ceilings within the various expense categories.

CSC officials told us they do not report fixed administrative costs by category because the contract does not require it. To enhance its ability to assess the reasonableness of contract costs and associated billings, the Department should require monthly reporting by cost category in any future RFP for eMedNY contracts.

Recommendations

2. Periodically review a sample of source documents supporting contract-related billings for variable charges. Adjust the

sample size and frequency of testing as deemed appropriate.

3. In future contracts require monthly financial reporting in a format that enables the Department to assess the reasonableness of fixed administrative fees.

(The Department agreed with Recommendations 2 and 3.)

Department Oversight of the Contract

The eMedNY system is a critical State system in terms of dollars, its impact on Medicaid recipients, and the providers who serve them. To ensure that CSC provides all of the required deliverables according to contract terms, and is paid only for appropriate and supportable charges, the Department is obliged to monitor CSC's performance. Since this contract involves a complex technical project, the Department hired BearingPoint, a private consultant, to perform program deliverable-related quality assurance services. BearingPoint is charged with reviewing contract deliverables to determine when they are complete, and satisfactorily meet contract specifications. However, all final decisions on, and approvals of, deliverables, remain the Department's responsibility.

Based on the results of our audit we conclude that the Department's oversight practices need improvement.

As noted in this report, the Department needs to ensure that deliverables such as the Fraud Program are completed to the satisfaction of the various entities that carry out audit functions, and within the mandated timeframes. This would require networking with the anticipated end users to receive feedback on whether the system is achieving its intended purpose. The Department also

needs to step up its monitoring of contract deliverables when BearingPoint's contract expires. This would necessitate Department program staff adopting the guidelines currently employed by BearingPoint regarding the quality and timeliness of each deliverable.

The Department should also establish control processes to verify that the amounts CSC bills for variable charges are accurate and documented. As noted above, the Department does not require CSC to submit detailed support for variable charges. We further understand that it might not be time effective and efficient to review 100 percent of the detailed support for each billing. However, periodic audits of these charges, even if limited in scope, would provide the Department with a satisfactory comfort level necessary to effectively apply the recommended sampling we note in Recommendation 2.

Recommendations

4. Revisit the decision to pay CSC additional compensation to which it is not entitled under the contract.

(In response to our draft report, Department officials stated that since the Department is partially responsible for the delays in program implementation, they do not think it appropriate to penalize CSC for any of its delays. The Department also believes it is appropriate to reimburse CSC for the additional costs it incurred due to these same delays.

Based on its response, we revised Recommendation 4 to exclude our suggestion that the Department determine whether delay penalties are appropriate. However, since the Department believes it is not appropriate to penalize CSC for

delays that it, the Department, was partially responsible for, then using that same logic, the Department should not be reimbursing CSC for additional costs it incurred for delays that CSC was partially responsible for.)

5. Develop a formal monitoring program to ensure contractor billings are justified and supported and to promptly identify noncompliance with service deliverables. Such a program could include periodic audits and/or vulnerability assessments.
6. Adopt, and revise as necessary, the quality assurance functions currently carried out by BearingPoint.

(Department officials agreed with Recommendations 5 and 6.)

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. Our audit tested to determine whether the deliverables in the contract were provided on time and within budget; whether contract payments were supported and accurate; and whether the department provided adequate oversight of contract operations. Our scope period was from May 1, 2000 through June 30, 2005 for contract payments, and through September 20, 2005 for contract deliverables.

Our audit testing included a review of the contract, contract amendments, and minutes of project-related meetings attended by Department and contractor staff. We interviewed Department and contractor officials, as well as officials from BearingPoint and Bull HN Information Systems Inc., a CSC subcontractor charged with implementing and operating the data warehouse. We verified the implementation

status of the major contract deliverables including the eMedNY and data warehouse systems. We met with various OSC staff, including on-site audit staff assigned to the eMedNY project and OSC Contracts Unit staff. In addition, we tested a sample of contract invoices and supporting documentation.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State accounting system; preparing the State's financial statements; and approving the State's contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State constitution, and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

A draft of this report was provided to Department and CSC officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. Department

officials agreed with some of our conclusions and recommendations, but disagreed with others. Excerpts from the Department's response have been included in the body of this report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, The Commissioner of the Department of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal

committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include William Challice, Frank Patone, Brittany Hayes, Suzette Baker, Anthony Calabrese, Ira Lipper, Andrew Rosenberry and Nancy Varley.

APPENDIX A - AUDITEE RESPONSE



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

May 23, 2006

William P. Challice
Audit Director
Office of State Services
State Audit Bureau
123 William Street – 21st floor
New York, New York 10038

Dear Mr. Challice:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's (OSC) draft audit report (2005-R-3) on "Implementation of eMedNY (Contract C014305)."

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis P. Whalen'.

Dennis P. Whalen
Executive Deputy Commissioner

Enclosure

cc: Mr. Charbonneau
Mr. Griffin
Ms. Hefner
Mr. Howe
Ms. Napoli
Ms. O'Connor
Mr. Reed
Mr. Seward
Mr. Wing

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2005-R-3
on "Implementation of eMedNY
(Contract C014305)"**

The following are the Department of Health's (DOH) comments concerning the recommendations contained in the Office of the State Comptroller's (OSC) draft audit report (2005-R-3) on "Implementation of eMedNY (Contract C014305)".

Recommendation #1:

To ensure CSC provides the required contract deliverables:

- Require CSC to develop and implement the fraud detection and prevention program as soon as possible and in compliance with contract terms.
- Ensure CSC develops and formalizes the associated quarterly reporting.
- Determine whether penalties against CSC are warranted for the contractor's failure to develop and implement the Program as required. Assess penalties as appropriate.
- Grant OSC read and copy access to the adjudicated claims file needed to properly perform its mandated audit function.

Response #1:

The Department disagrees with this recommendation. Concerning the first three points, Computer Sciences Corporation (CSC) has developed and implemented the fraud detection and prevention program in compliance with contract terms, and, therefore, no penalties are warranted. Although the formal document describing the program was not delivered until January 2006, the activities constituting the program, developed in cooperation with Department personnel, were in effect in April 2005.

As described in CSC's proposal, in April 2005 they dedicated a member of their Quality Assurance staff exclusively to fraud detection activities. Examples of the activities performed include:

- Random and focused selection of claims with subsequent analysis;
- Examination of large dollar payments from each claims payment cycle;
- Assisting DOH fraud auditors in defining criteria to be applied to the DOH Fraud and Abuse Management System (FAMS);
- Supplying information directly to the Office of the Attorney General in support of their fraud investigations and prosecution activities:

- Working with OSC to provide supporting research and documentation for OSC-targeted Medicaid reviews and fieldwork; and
- Providing technical assistance to OSC in the creation and maintenance of automated audit routines and utilities.

In total, CSC has performed more than 50 in-depth investigations into suspected fraud cases identified through a combination of parameter-based reporting, internal referrals, and knowledge-based focused reviews. These investigations resulted in 14 referrals to the DOH Fraud Unit during the last three quarters of 2005, and 17 referrals during the first quarter of 2006. Referrals were forwarded immediately upon completion of research activities. The associated reporting has now been formalized, and is being delivered quarterly.

It should be noted that as a result of CSC's reviews, two providers have been placed on a full claims review list, and a number of provider payments have been subject to recoupment. CSC has been providing reporting and referrals since April 2005.

Concerning the last point, the Department has repeatedly pointed out to auditors that the adjudicated claims file no longer exists in its Legacy format. However, existing tools and avenues are available to facilitate pre- and post-payment claims research: it is incumbent upon OSC staff to develop the skill sets necessary to use these tools.

Due to the nature of the on-line real-time database technologies which comprise the eMedNY systems, claims adjudication information for the eMedNY weekly payment cycles is maintained in formats which differ markedly from those used in the Legacy systems. Current cycle claims payment information is available immediately at the close of each payment cycle in database tables. Each week, this information is converted to sequential file format and the claims data is accessible through the use of readily available utility programs, such as Easytrieve. This converted format is virtually identical to the format formerly used on the Legacy system. Near-term historical claims information, which had been stored on tape cartridges in the Legacy systems, is stored as database tables on the eMedNY systems. CSC has offered to create structured query language (SQL) utilities to facilitate OSC access to historical data. To date, OSC has not provided CSC with the specifications needed to create the SQL utilities.

Additionally, audit tools are available to access all eMedNY systems, mainframe as well as, data warehouse. These tools support several hundred active users. CSC has provided OSC staff with training in the use of many of these tools, and will continue to provide training and support when requested. It is unreasonable to expect the completely different technology which forms the basis of the eMedNY systems to be entirely compatible with software used on the Legacy systems. To make the best possible use of the available tools, OSC auditors must adapt their technical skill sets to the tools used on the new system.

In summary, the requested access is available; OSC must provide technical specifications for utility program development, and OSC staff must develop the skill sets necessary to fully exploit the capabilities of the modern eMedNY systems.

Recommendation #2:

Periodically review a sample of source documents supporting contract-related billings for variable charges. Adjust the sample size and frequency of testing as deemed appropriate.

Response #2:

The Department agrees with this recommendation. With the implementation of eMedNY, the Department established a Systems Monitoring and Quality Assurance group within the oversight team at the eMedNY project site. The primary mission of this group is to monitor contract performance standards in a variety of ways and to assure accuracy of CSC billings via the periodic review of samples of source documents supporting contract-related billings for variable charges.

Recommendation #3:

In future contracts, require monthly financial reporting in a format that enables the Department to assess the reasonableness of fixed administrative fees.

Response #3:

The Department agrees and will endeavor to implement this recommendation in future eMedNY procurements.

Recommendation #4:

Determine whether delay penalties are appropriate, and revisit the decision to pay CSC additional compensation to which it is not entitled under the contract.

Response #4:

The decision to assess penalties on a contractor for delaying a project must be determined based on a number of factors: identification of culpability for the delay, actions the contractor is taking to remediate the problem, and the impact such action will have on the progress of the project. The Department has previously supplied OSC with the details of our determinations in this matter, but will do so again.

- **Culpability for the delay:** The Department analyzed the period of the delay and assessed responsibility. For the periods that were the sole responsibility of the Department, the decision was to reimburse the contractor for a portion of their fixed costs. For the period in which there was a shared responsibility, the Department only reimbursed the contractor for half of the fixed costs. Finally, where the contractor was fully at fault for the delay, the Department did not reimburse the contractor for any costs.
- **Contractor remediation actions:** The contractor replaced its management team with a highly skilled team of experts and brought in an additional 140 staff to get the project back on track. This was all done under the fixed

Recommendation #2:

Periodically review a sample of source documents supporting contract-related billings for variable charges. Adjust the sample size and frequency of testing as deemed appropriate.

Response #2:

The Department agrees with this recommendation. With the implementation of eMedNY, the Department established a Systems Monitoring and Quality Assurance group within the oversight team at the eMedNY project site. The primary mission of this group is to monitor contract performance standards in a variety of ways and to assure accuracy of CSC billings via the periodic review of samples of source documents supporting contract-related billings for variable charges.

Recommendation #3:

In future contracts, require monthly financial reporting in a format that enables the Department to assess the reasonableness of fixed administrative fees.

Response #3:

The Department agrees and will endeavor to implement this recommendation in future eMedNY procurements.

Recommendation #4:

Determine whether delay penalties are appropriate, and revisit the decision to pay CSC additional compensation to which it is not entitled under the contract.

Response #4:

The decision to assess penalties on a contractor for delaying a project must be determined based on a number of factors: identification of culpability for the delay, actions the contractor is taking to remediate the problem, and the impact such action will have on the progress of the project. The Department has previously supplied OSC with the details of our determinations in this matter, but will do so again.

- **Culpability for the delay:** The Department analyzed the period of the delay and assessed responsibility. For the periods that were the sole responsibility of the Department, the decision was to reimburse the contractor for a portion of their fixed costs. For the period in which there was a shared responsibility, the Department only reimbursed the contractor for half of the fixed costs. Finally, where the contractor was fully at fault for the delay, the Department did not reimburse the contractor for any costs.
- **Contractor remediation actions:** The contractor replaced its management team with a highly skilled team of experts and brought in an additional 140 staff to get the project back on track. This was all done under the fixed

implementation portion of the contract with no request for additional reimbursement. The Department determined that this action was a good faith effort on the part of the contractor to deliver a good system.

- **Impact on the progress of the project:** Based on the corrective action that the contractor was taking, it was the Department's judgment that imposing penalties for that particular period of time would be counterproductive and detrimental to the project.

The Department continues to believe that delay penalties should not be assessed to the contractor and that reimbursement to the contractor for a portion of the fixed costs it incurred because of delays attributable to the Department is justified.

Recommendation #5:

Develop a formal monitoring program to ensure contractor billings are justified and supported and to promptly identify noncompliance with service deliverables. Such a program could include periodic audits and/or vulnerability assessments.

Recommendation #6:

Adopt, and revise as necessary, the quality assurance functions currently carried out by BearingPoint.

Response #5 and #6:

The Department agrees with these recommendations. As noted previously, the Department established a Systems Monitoring and Quality Assurance group within the oversight team at the time eMedNY was implemented. The group's primary mission is to monitor contract performance standards in a variety of ways, and to assure accuracy of CSC billings via the periodic review of samples of source documents supporting contract-related billings for variable charges. In its quality assurance mission, the group is also assuming many of the functions previously carried out by BearingPoint.