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**Thomas P. DiNapoli  
COMPTROLLER**



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**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

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<b>Audit Objective.....</b>	<b>2</b>
<b>Audit Results - Summary.....</b>	<b>2</b>
<b>Background.....</b>	<b>2</b>
<b>Audit Findings and Recommendations.....</b>	<b>3</b>
Medicaid Payments for Referred Ambulatory and Laboratory Services.....	3
<i>Recommendations.....</i>	<i>3</i>
<b>Audit Scope and Methodology.....</b>	<b>4</b>
<b>Authority .....</b>	<b>4</b>
<b>Reporting Requirements.....</b>	<b>5</b>
<b>Contributors to the Report .....</b>	<b>5</b>
<b>Appendix A - Auditee Response ....</b>	<b>6</b>
<b>Appendix B - State Comptroller's Comment .....</b>	<b>11</b>

**DEPARTMENT OF HEALTH**

**MEDICAID PAYMENTS TO  
REFERRED AMBULATORY  
AND LABORATORY  
PROVIDERS WHILE  
RECIPIENTS WERE  
HOSPITALIZED**

**Report 2006-S-90**

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## AUDIT OBJECTIVE

The objective of our audit was to determine if New York State's medical assistance program (Medicaid) made inappropriate payments to ambulatory and laboratory providers while recipients were hospitalized.

## AUDIT RESULTS - SUMMARY

During our five year audit period ended February 28, 2007, we identified over \$2.3 million in inappropriate Medicaid payments to referred ambulatory and laboratory providers while recipients were hospitalized. Our review of medical claims data showed the Medicaid recipients were hospitalized at the time the referred ambulatory or laboratory services were supposedly provided. Because the comprehensive hospital rates included the cost of such services, the referred ambulatory and laboratory providers should not have billed Medicaid separately for their services. We also questioned an additional \$622,937 in payments to referred ambulatory and laboratory providers for recipients hospitalized in facilities where the Medicaid payment rates are established by the Office of Alcohol and Substance Abuse Services (OASAS). The Department of Health (Department) should recover the inappropriate payments from the referred ambulatory and laboratory providers.

Our report contains six recommendations to recover inappropriate Medicaid payments and improve controls over payments to referred ambulatory and laboratory providers. Department officials generally agree with our recommendations and will take steps to implement changes.

This report, dated December 10, 2007, 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  
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## BACKGROUND

The Department administers the Medicaid program which was established under Title XIX of the federal Social Security Act to provide needy people with medical assistance. The program is funded jointly by the federal, State, and local governments. Its management information and claims processing functions are handled through the State's eMedNY system, which the Department implemented on March 24, 2005.

Under Part 86 of Title 10 of the New York State Health Code, Rules and Regulations, Section 86-1.18, the Department establishes all-inclusive hospital inpatient rates that cover the costs of almost all services provided to Medicaid recipients that are hospitalized. Additionally, 18 NYCRR 505.7(g) (7) specifically prohibits separate laboratory billings while a recipient is hospitalized.

Recipients treated as inpatients in a hospital may be referred to other medical facilities for ambulatory services such as radiology (x-rays, CAT Scans, MRIs, etc.) when these services can not be provided at the hospital where the recipient is staying. Similarly, patients requiring certain laboratory tests may have them performed at other facilities when necessary. However, Medicaid will not pay separately for referred ambulatory and laboratory services when these services are

included in a hospital's Medicaid payment rate. In these instances, the providers of service should seek reimbursement directly from the hospitals. Separate payments will also not be made for referred ambulatory and laboratory services if these services are billed by the hospital where the patient is staying.

OASAS plans, develops and regulates the State's system of chemical dependence and gambling treatment agencies. This includes the direct operation of addiction treatment centers that provide inpatient rehabilitation services. In addition, OASAS licenses, funds, and supervises local community-based programs and chemical dependence treatment programs. OASAS inspects and monitors these programs to guarantee quality of care and to ensure compliance with state and national standards. OASAS also establishes reimbursement rates for the facilities it is responsible for.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

### *Medicaid Payments for Referred Ambulatory and Laboratory Services*

During the period March 1, 2002 through February 28, 2007, Medicaid paid more than \$2.3 million for referred ambulatory and laboratory services inappropriately billed for hospitalized recipients. These overpayments include both payments to the hospitals where the recipients were staying and payments to facilities where the recipients were referred when services could not be provided by the hospitals. These overpayments occurred because the referred ambulatory and laboratory service providers either ignored or misinterpreted Medicaid billing guidelines. For example, we visited four referred ambulatory service providers. Each provider billed Medicaid for services provided to

patients when the documentation clearly indicated that the recipients were referred from hospitals.

The \$2.3 million in overpayments also occurred because eMedNY lacks the controls and automated edits necessary to detect and prevent these overpayments. Instead, the Department relies on computer routines maintained by the Office of the Medicaid Inspector General (OMIG) which were designed to identify inappropriate claims on a post payment basis. However, we question whether OMIG's process for identifying inappropriate claims is as thorough as it could be. For example, OMIG excludes claims from its process for hospitalized recipients that are referred to other facilities for services. Consequently, OMIG's process did not identify more than \$1.5 million in overpayments we identified for these services.

We also identified an additional \$622,937 in questionable payments to referred ambulatory and laboratory providers for recipients hospitalized in OASAS facilities. Because OASAS does not require facilities to identify specific laboratory and referred ambulatory costs in its financial reporting process used to calculate reimbursement rates, OASAS officials could not determine whether the OASAS facilities are already being reimbursed for the services we identified. OASAS officials recognize these limitations and have taken steps to require providers to report specific costs which would allow this determination.

### **Recommendations**

1. Review the \$2.3 million referred ambulatory and laboratory payments we identified and recover overpayments where appropriate.

2. Instruct referred ambulatory and laboratory providers on the appropriate way to bill Medicaid for services provided to hospitalized recipients.
3. Ensure that the Medicaid referred ambulatory provider manual, which is currently being revised, includes clearly defined guidelines for billing services provided to hospitalized recipients.
4. Implement appropriate edits to the eMedNY system to prevent these overpayments from occurring.
5. OMIG should re-evaluate its process for identifying referred ambulatory and laboratory payments made for hospitalized recipients.
6. Verify that OASAS requires providers to report sufficient cost information to determine what services are included in a provider's reimbursement rate.

#### **AUDIT SCOPE AND METHODOLOGY**

We conducted our audit according to generally accepted government auditing standards. We audited Medicaid claims submitted by referred ambulatory and laboratory providers and processed by the Department during the five year audit period ended February 28, 2007. To accomplish our audit objective, we extracted questionable claims from the Medicaid payment file and verified the accuracy of the payments. We

interviewed Department officials, visited selected referred ambulatory and laboratory providers to review medical records and other supporting documentation, reviewed applicable sections of federal and State laws and regulations, and examined the Department's relevant payment policies and procedures.

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. These include operating the State's accounting system; preparing the State's financial statements; and approving State 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 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.

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## **REPORTING REQUIREMENTS**

We provided a draft copy of this report to Department officials for their review and comment. Department officials generally agreed with our recommendations and indicated actions planned or taken to implement them. We considered their comments in preparing this report. A complete copy of the Department's response is included as Appendix A. Appendix B contains a State Comptroller's comment which addresses matters contained in the Department's response.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department 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 the report include Steve Sossei, Sheila Emminger, Warren Fitzgerald, Ronald Pisani, Dennis Buckley, Daniel Towle and Peter Amorosa.

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

Richard F. Daines, M.D.  
*Commissioner*

Wendy E. Saunders  
*Chief of Staff*

September 7, 2007

Sheila A. Emminger, Audit Manager  
Office of the State Comptroller  
Division of State Services  
State Audit Bureau  
110 State Street, 11<sup>th</sup> Floor  
Albany, New York 12236

Dear Ms. Emminger:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's draft audit report on "Medicaid Payments to Referred Ambulatory and Laboratory Providers While Recipients Were Hospitalized" (2006-S-90).

Thank you for the opportunity to comment.

Sincerely,

Wendy E. Saunders  
Chief of Staff

Enclosure

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cc: Deborah Bachrach  
Homer Charbonneau  
Randall Griffin  
Gail Kerker  
Katherine Napoli  
Robert W. Reed  
Philip Seward  
James Sheehan

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Draft Audit Report 2006-S-90 on  
“Medicaid Payments to Referred Ambulatory  
and Laboratory Providers While  
Recipients Were Hospitalized”**

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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) draft audit report 2006-S-90 on "Medicaid Payments to Referred Ambulatory and Laboratory Providers While Recipients Were Hospitalized."

**Recommendation #1:**

Review the \$2.8 million referred ambulatory and laboratory payments we identified and recover overpayments where appropriate.

**Response #1:**

As the Office of the Medicaid Inspector General (OMIG) previously discussed with the OSC, the elimination of claims for high risk infant transportation and drug eluting stents have reduced the audit findings from \$2.8 million to \$2 million.

OMIG's Systems Match and Recovery Unit is in the process of recovering ambulatory and laboratory claims from facilities affiliated with the inpatient provider. With the exception of the first day inpatient stay, OMIG will expand its audit plan to include laboratory and ambulatory claims for non-affiliated providers as indicated by OSC.

* Comment
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**Recommendation #2:**

Instruct referred ambulatory and laboratory providers on the appropriate way to bill Medicaid for services provided to hospitalized recipients.

**Response #2:**

The Department, in a Medicaid Update, will remind providers that all lab testing is included in the hospital inpatient Diagnosis Related Group (DRG) and that these tests cannot be billed fee-for-service as ordered ambulatory.

\* See State Comptroller's Comment, page 11

**Recommendation #3:**

Ensure that the Medicaid referred ambulatory provider manual, which is currently being revised, includes clearly defined guidelines for billing services provided to hospitalized recipients.

**Response #3:**

The Department will make the necessary revisions to the Medicaid referred ambulatory provider manual, clearly defining the guidelines for billing services provided to hospitalized recipients.

**Recommendation #4:**

Implement appropriate edits to the eMedNY system to prevent these overpayments from occurring.

**Response #4:**

The OMIG has requested an eMedNY Evolution Project (EP 1050) to prevent these payments from occurring. Edits 759 and 760 will be modified to address referred ambulatory and laboratory services billed to Medicaid during a period when the client is in a hospital inpatient facility. The project is due to be implemented November 8, 2007.

**Recommendation #5:**

OMIG should re-evaluate its process for identifying referred ambulatory and laboratory payments made for hospitalized recipients.

**Response #5:**

OMIG staff are continually evaluating the post-payment process for identifying referred ambulatory and laboratory payments made for hospitalized recipients.

**Recommendation #6:**

Verify that OASAS requires providers to report sufficient cost information to determine what services are included in a provider's reimbursement rate.

**Response #6:**

The Office of Alcoholism and Substance Abuse Services (OASAS) has taken steps to better identify provider costs that may be considered "routine medical services" by modifying the Consolidated Fiscal Report (CFR) to include predefined lines for laboratory services, prescriptions and non-medication prescriptions. This will enable OASAS to determine if these costs are included in the provider's reimbursement rate and therefore not billable upon referral. In addition, OASAS plans to issue written

guidance to its inpatient rehabilitation service providers which more clearly articulates the regulatory expectations regarding the provision of routine medical services.

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## APPENDIX B - STATE COMPTROLLER'S COMMENT

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Certain matters contained on our draft audit report were changed based on the Department's response. After discussions with the New York State Office of the Medicaid Inspector General, we eliminated

claims for high risk infant transportation and drug eluting stents from our audit findings. We reduced our audit findings accordingly and now report potential overpayments of \$2.3 million.