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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF HEALTH

**MEDICAID PAYMENTS FOR
PHARMACY SERVICES
WHILE RECIPIENTS
RESIDE IN NURSING
HOMES**

Report 2007-S-88

AUDIT OBJECTIVE

The objective of our audit was to determine if Medicaid providers received inappropriate payments for pharmacy services on behalf of recipients residing in nursing homes.

AUDIT RESULTS - SUMMARY

During our five year audit period ended February 28, 2007, we identified \$2,072,022 in Medicaid payments for pharmacy services that were billed on behalf of recipients in nursing homes. Because comprehensive Medicaid rates for nursing homes include the cost of certain drugs, pharmaceutical providers should not bill separately for these services. Rather, providers should directly bill nursing homes unless the drug is required as a part of a recipient's continuation of care upon discharge.

Our review of records at three pharmacies confirmed instances of inappropriate billings for recipients residing in nursing homes. Accordingly, there is a strong potential the \$2,072,022 billed for pharmacy services is inappropriate. Our report contains two recommendations to recover Medicaid payments and improve the controls over payments for pharmacy claims while recipients reside in nursing homes.

This report, dated December 28, 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

Under Part 86 of Title 10 of the New York State Health Codes, Rules and Regulations, Section 86-2.10, the Department of Health (Department) establishes all-inclusive rates that cover the costs of most basic services, including the costs of certain pharmaceutical drugs, provided to Medicaid recipients that reside in nursing homes. Separate reimbursement for pharmacy services while a recipient is in a nursing home could be appropriate in certain situations, including those that occur on the day a recipient is discharged from the nursing home and for certain drugs not included in nursing home rates.

The Department maintains a drug "carveout list" that identifies all drugs not included in nursing home rates, such as high cost drugs for HIV patients. Drugs on the carveout list are allowed to be billed separately for residents in nursing homes. All other pharmacy claims should be billed directly to the nursing home because the all-inclusive rates reimbursed by Medicaid already include a reimbursement for those drugs.

The Department designed a system edit in eMedNY, the Department's centralized Medicaid payment system, to help prevent inappropriate pharmacy payments on behalf of nursing home residents. This edit will deny payment of pharmacy claims if the Principal Provider file in eMedNY indicates that a recipient is in a nursing home and the drug is not listed on the drug carveout list. The Principal Provider file captures admission and discharge dates that are critical to the proper functioning of the edits.

The nursing home is responsible for forwarding appropriate admission and discharge documentation to its Local Department of Social Services Medicaid

office. These county offices are then required to enter the admission and discharge dates into eMedNY, which are used by the eMedNY system edit as the basis for payment of pharmacy claims.

Timely entry of admission and discharge dates is necessary for the edit to function properly. When a pharmacy claim is submitted to eMedNY for payment, the edit looks at these dates to determine if a Medicaid recipient is a resident of a nursing home facility. If an admission date is promptly entered, the edit will deny a claim because the system recognizes the recipient is in a nursing home. If, however, the Local Department of Social Services Medicaid offices do not receive admission and discharge information from the nursing homes in a timely manner, and this information is not subsequently entered into eMedNY by the local offices timely, a claim will be paid if the edit does not recognize the recipient is in a nursing home.

AUDIT FINDINGS AND RECOMMENDATIONS

Medicaid Payments for Pharmacy Services

During our five year audit period, we identified 2,105 pharmacies that billed Medicaid \$2,072,022 for drugs on behalf of residents in nursing homes whose nursing home rate included the costs of such drugs. We visited three pharmacies to review records supporting 51 pharmacy billings totaling \$9,554. We determined 47 claims for drugs totaling \$9,441 were inappropriately billed to Medicaid and should have been billed directly to the nursing home. For example:

- a \$1,122 payment for a chemotherapy drug dated March 9, 2004 for a

recipient residing in a nursing home from January 15, 2004 through March 18, 2004; and

- a \$430 payment for a drug used to treat bipolar disorders dated April 9, 2005 for a recipient residing in a nursing home from April 1, 2005 through July 21, 2007.

We met with Department staff and reviewed pharmacy claims from our onsite reviews to determine how each claim was able to bypass the edit process. From this meeting we were able to determine that the pharmacy billed on behalf of a nursing home resident prior to the Local Department of Social Services Medicaid office updating the resident's Principal Provider file in eMedNY.

For example, a recipient in our sample entered a nursing home on February 28, 2006 and was discharged six months later on August 28, 2006. The Principal Provider file for this recipient was not updated to reflect their nursing home status until September 5, 2006, *after* the recipient left the facility. Six pharmacy claims for this recipient had dates of service of March 1, 2006 and were inappropriately paid and bypassed the system edit because the necessary information needed to deny them was not updated timely.

Department officials further explained there should be no separate billings by pharmacies for these claims unless the drug is required as a part of a recipient's continuation of care upon discharge. Accordingly, although there is no official policy, Department officials state that pharmacy claims billed three to four days in advance of a recipient's discharge from a nursing home may be appropriate.

We therefore analyzed the \$2,072,022 and computed the number of days the pharmacy claims occurred in advance of the resident's

discharge from the nursing home facility. We determined only a minor portion of the \$2,072,022, about \$199,000 (9.6 percent) was billed within four days of the resident's discharge from a nursing home facility. However, eMedNY does not capture the information that would distinguish whether the \$199,000 was in fact required as a part of a recipient's continuation of care upon discharge. We continue to question the appropriateness of the \$199,000 in billings as these payments were for drugs that would have been included in the nursing home rate billed during those days, in advance of discharge, that the recipient was still in the nursing home receiving care.

Our review of records at three pharmacies confirmed instances of inappropriate billings of drugs for recipients residing in nursing homes. Accordingly, there is a strong potential the \$2,072,022 billed for pharmacy services for residents in nursing homes is inappropriate.

Recommendations

1. Review the \$2,072,022 in payments we identified and recover inappropriate payments.
2. Work with the Local Department of Social Services Medicaid offices and nursing homes to ensure the timely updating of admission and discharge information in the Principal Provider file in eMedNY.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited the Department's administration of Medicaid payments for pharmacy services provided to

nursing home residents for the period March 1, 2002 through February 28, 2007.

To accomplish our objective we met with Department and New York State Office of the Medicaid Inspector General representatives to gain an understanding of the policies and controls surrounding the appropriateness of pharmacy payments made on behalf of nursing home residents. We reviewed applicable sections of federal and State laws and regulations, and examined the Department's relevant policies and procedures. We extracted questionable claims from eMedNY and verified the accuracy of such payments. Our analysis and audit conclusions did not include pharmacy billings that occurred on the last day of a nursing home stay because a recipient could have appropriately had a pharmacy claim after their nursing home discharge on this day.

We judgmentally selected and visited three pharmacies that had a high dollar amount of pharmacy claims for nursing home residents during our audit scope. While onsite at the providers, we reviewed prescription records for 51 judgmentally selected pharmacy claims. Selection criterion for pharmacy claims was based on the number of days the pharmacy claim was in advance of the last day of the corresponding nursing home billing cycle.

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 who 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.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. Department officials did not provide a written response to the report within the allotted time frame. Therefore the Department's formal comments were not considered in preparing 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 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 Sheila Emminger, Andrea Inman, Christopher Morris, Dennis Buckley, Peter Amorosa, and Judith McEleney.