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COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 8, 2009

Richard F. Daines, M.D.
Commissioner
NYS Department of Health
Corning Office Building
Empire State Plaza
Albany, NY 12237

Re: Report 2009-F-34

Dear Dr. Daines:

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, we have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Inappropriate Medicaid Billings For Dental Services* (Report 2008-S-67).

Background, Scope and Objective

Under New York State's Medicaid program, certain dental services are eligible for reimbursement at rates established by the Department. When dental providers bill Medicaid, they are expected to comply with Department rules and regulations. Dental providers' Medicaid claims are processed and paid through the Department's eMedNY system, which the Department implemented on March 24, 2005.

Our initial audit report, which was issued on July 9, 2008, examined Medicaid claims submitted by Alan Zukor, DDS, a dentist who operated several offices in Brooklyn. For several patients, Dr. Zukor submitted claims for filling all 32 of the patients' teeth, and shortly thereafter, he submitted other claims for extracting the same patients' 32 teeth. In 2008, Dr. Zukor would have been reimbursed more than \$400,000 for suspicious Medicaid claims he submitted, if we had not questioned his claims and requested the Department to withhold payment of them. The inappropriate payments would have occurred because, at the time of our audit, eMedNY lacked the controls necessary to detect an excessive or questionable number of dental fillings or tooth extractions performed on a patient during a single visit. The objective of our follow-up was to assess the extent of implementation, as of September 17, 2009, of the four recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials took extensive actions to address the matters included in our initial report. We determined that Department officials fully implemented each of the four recommendations from the report.

Follow-up Observations

Recommendation 1

Do not pay Dr. Zukor the \$307,537 in pending reimbursements for the claims disallowed.

Status - Implemented

Agency Action - Department officials did not pay Dr. Zukor the \$307,537 in reimbursements pending at the time of our initial audit. The Department also withheld payment of all of Dr. Zukor's Medicaid claims (totaling \$177,606) for periods subsequent to our review. Consequently, as a result of these actions, the Department withheld a total of \$485,143 in claim payments from Dr. Zukor.

Recommendation 2

Investigate the \$1.4 million in previously paid claims and recover any inappropriate payments.

Status - Implemented

Agency Action - Since our initial report was issued, the Department has assisted the State Attorney General in civil and criminal investigations of Dr. Zukor. In a civil case, the Attorney General obtained a default judgment of about \$4.7 million against Dr. Zukor in May 2008. The Department continues to assist the Attorney General in its ongoing criminal investigation.

Recommendation 3

Implement edits to the eMedNY system to identify and prevent payment for excessive dental services.

Status - Implemented

Agency Action - Effective January 1, 2009, the Department implemented edits to the eMedNY system to detect excessive or improbable numbers of dental fillings or tooth extractions performed on one patient during a single visit.

Recommendation 4

Determine if Dr. Zukor should be decertified as a participating provider in New York State's Medicaid program.

Status - Implemented

Agency Action - On August 7, 2008, the Department decertified Dr. Zukor from participation in the State's Medicaid program.

Major contributors to this report were Warren Fitzgerald, Mary Roylance and Constance Walker.

We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Brian E. Mason
Audit Manager

cc. Mr. Stephen Abbott, DoH
 Mr. Thomas Lukacs, DoB
 Mr. Steven Sossei, OSC