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March 17, 2011

Nirav R. Shah, M.D., M.P.H.
Commissioner
NYS Department of Health
Corning Tower Building
Empire State Plaza
Albany, New York 12237

Re: Report 2010-F-43

Dear Dr. Shah:

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 to implement the recommendations contained in our audit report, *Inappropriate Medicaid Claims for Newborn Services* (Report 2008-S-152).

Background, Scope and Objective

Under Medicaid, Diagnosis Related Groups (DRGs) serve as a basis of payment for some inpatient stays, including neonatal (newborn) care. Neonatal claims are assigned a DRG code based on various factors reported on claims, including birth weight, diagnosis, length of hospital stay, and type of discharge. Healthy newborns are typically discharged home from the hospital after a two day length of stay. However, newborns with very low birth weights are likely to be hospitalized longer and require more complex levels of care before they can be discharged. For the period January 1, 2006 through January 31, 2011, the Department paid a total of $2.1 billion for newborn inpatient services.

The DRG system allows higher Medicaid reimbursement to hospitals that provide more complex and expensive medical care for newborns, particularly those with low birth weights. The Department of Health's (Department) Medicaid policy requires all newborn inpatient claims to include a newborn's birth weight in grams. According to the Department, medical services for a newborn weighing less than 750 grams (less than two pounds) at birth cost over 151 times more than a normal newborn weighing 2,000 grams (over four pounds) or more. Therefore, hospitals that bill for very low birth weight babies generally receive higher payments than those who bill for normal

birth weight babies. If hospitals submit claims with incorrect birth weights, there is a high risk of inappropriate Medicaid reimbursements - often overpayments.

Our initial audit report, which was issued on September 10, 2009, examined whether Medicaid overpaid for newborn inpatient services when providers submitted claims with inaccurate birth weight information. For the five-year period ended March 31, 2008, we selected a sample of 469 neonatal claims that contained unusual characteristics, such as low birth weights combined with discharges home after short lengths of stay. We found that 136 claims (or 29 percent) contained inaccurate birth weights and resulted in a net overpayment of $480,894. Given the potential for cost savings, we concluded that the Department should employ a testing process similar to the one used in our audit to identify and prevent overpayments corresponding to such claims. The objective of our follow-up was to assess the extent of implementation, as of March 1, 2011, of the two recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

Department officials have made some progress in correcting the problems we identified in the initial report. However, improvements are still needed. Both of the two prior audit recommendations have been partially implemented.

Follow-up Observations

Recommendation 1

Take actions to recover the inappropriate payments (totaling $480,894) for the 92 claims, identified by our report, which the Department has acknowledged were the result of birth weight reporting errors.

Status - Partially Implemented

Agency Action - The Department contracts with Island Peer Review Organization (IPRO), an outside claims review contractor, to review certain claims for propriety. On February 18, 2011, the Department sent IPRO the 92 claims identified in our original audit report to review and adjust accordingly. We note that Department officials did not ask IPRO to review these claims until one year and five months after our audit report was issued. As of March 1, 2011, the Department was not aware if any adjustments were made to these claims.

Recommendation 2

The Department and/or its claim review contractor should use a testing process similar to the process discussed in this audit report to identify potentially problematic Medicaid claims for services to newborns and to prevent overpayments corresponding to such claims.

Status - Partially Implemented

Agency Action - Department officials stated that in mid-February 2011, they proposed two new edits to test newborn birth weights indicated on a claim against the birth weight criteria related to the diagnosis code on the claim. The proposed edits would deny a claim if the birth weight is less than the weight indicated for that diagnosis code on the claim. As of March 1, 2011, the edits were only in the beginning stages of development. Again, we note the Department did not propose these edits until one year and five months after our audit report was issued.

Major contributors to this report were Karen Bogucki and Donald Collins.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department of Health for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Edward J. Durocher, CIA
Audit Manager

cc: Mr. Thomas Lukacs, Division of the Budget
Mr. Stephen Abbott, Department of Health
Mr. Stephen LaCasse, Department of Health