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COMPTROLLER



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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

April 8, 2019

Howard A. Zucker, M.D., J.D.  
Commissioner  
Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

Re: Improper Medicaid Payments for  
Recipients Diagnosed With Severe  
Malnutrition  
Report 2017-S-85

Dear Dr. Zucker:

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 conducted an audit of the Department of Health (Department) to determine whether Medicaid made overpayments to hospitals that improperly billed All Patient Refined Diagnosis Related Groups (APR-DRG) inpatient claims containing a severe malnutrition diagnosis. The audit covered the period from January 1, 2013 through December 31, 2017.

**Background**

The New York State Medicaid program is a federal, state, and local government-funded program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. For the State fiscal year ended March 31, 2018, New York's Medicaid program had approximately 7.3 million recipients and Medicaid claim costs totaled about \$62.9 billion. The federal government funded about 55.7 percent of New York's Medicaid claim costs, and the State and the localities (the City of New York and counties) funded the remaining 44.3 percent.

The Department administers the Medicaid program in New York State. Medicaid claims are processed and paid by an automated system called eMedNY. When eMedNY processes claims, the claims are subject to various automated controls, which determine whether the claims are eligible for reimbursement and if the amounts claimed for reimbursement are appropriate.

The Department uses the APR-DRG methodology to reimburse hospitals for inpatient

medical care. To make APR-DRG reimbursement determinations, the Department uses a third-party software (Grouper). When a hospital bills Medicaid for an inpatient stay, the hospital reports certain information on its claims, such as the patient's diagnoses and services received. Grouper uses this information to assign the appropriate APR-DRG (i.e., diagnosis related group) and a severity of illness (minor, moderate, major, or extreme) for the inpatient stay. Based on this information, eMedNY then assigns a service intensity weight to the claim (generally, more acute or severe medical conditions receive a higher weight). The service intensity weight, in conjunction with an established payment rate for the hospital, is used to calculate the hospital's payment. As the service intensity weight increases, the hospital's payment increases.

Malnutrition can result from the treatment of another condition, inadequate treatment or neglect, or general deterioration of an individual's health. The American Society for Parenteral and Enteral Nutrition (ASPEN) publishes standards and guidelines related to nutritional care. In 2012, ASPEN published guidelines to diagnose and document malnutrition and its severity (mild, moderate, or severe) using six clinical characteristics, of which at least two should be met to be classified as severe malnutrition. Application of this criteria also depends on whether the patient has an acute or chronic illness. Hospitals are not required to use these guidelines; however, the guidelines provide consistency in diagnosing malnutrition.

Once malnutrition is identified, a hospital must use the appropriate International Classification of Diseases (ICD) code on its claim to reflect the diagnosis. Generally, as the severity of the malnutrition diagnosis increases, Medicaid's payment to the hospital will increase. Medicaid will only pay for medical care and services that are medically necessary, whose necessity is evident from documentation in the patient's medical record, and that meet existing standards of professional practice. For the five-year period ended December 31, 2017, Medicaid paid about \$521 million for 28,997 inpatient claims that included a severe malnutrition diagnosis.

### **Results of Audit**

For the five-year period ended December 31, 2017, we identified \$416,237 in overpayments on 44 inpatient claims that three hospitals billed to Medicaid, which contained a severe malnutrition diagnosis that the medical records did not appear to support. We found that the hospitals were not following ASPEN's guidelines for identifying and documenting severe malnutrition on these claims.

Medicaid relies on hospitals to report accurate ICD diagnosis codes on inpatient claims. When hospitals report inaccurate information on their claims, it can cause eMedNY to make incorrect payments. We identified 44 claims where hospitals reported a severe malnutrition diagnosis code, yet the necessity of the diagnosis was not evident from the documentation in the patients' medical records. As a result, the severe malnutrition diagnosis codes increased the service intensity weight on the claims, which caused eMedNY to overpay the hospitals \$416,237.

We identified the overpayments by reviewing a judgmental sample of 135 claims with payments totaling \$3,301,149 from four hospitals. We reviewed the medical records to assess the appropriateness of the severe malnutrition diagnosis billed to eMedNY. All four hospitals in our

sample stated that they used ASPEN's guidelines to diagnose patients with severe malnutrition. Our review found that three of the four hospitals did not properly apply ASPEN's guidelines for diagnosing and documenting severe malnutrition on 44 of the claims. As a result, the hospitals misdiagnosed patients with severe malnutrition, causing eMedNY to overpay the hospitals' claims.

Specifically, for 19 of the 44 claims (\$213,595 in overpayments), the patient was admitted for treatment of a chronic illness (e.g., cancer) but was assessed for malnutrition using ASPEN's acute criteria. This was improper because if the hospital had assessed the patient's clinical characteristics in the context of their chronic illness, the patient would not have been diagnosed with severe malnutrition.

For 22 of the claims (\$188,427 in overpayments), the patient's medical records did not exhibit at least two of the six clinical characteristics for severe malnutrition. For example, we found a claim where the patient's medical record documented only one of the six clinical characteristics for severe malnutrition. Despite the patient not meeting the clinical criteria for severe malnutrition, the hospital included the diagnosis on its claim. Medicaid paid the hospital \$15,238 for the claim. We estimate that Medicaid would have paid the hospital \$10,286 if the claim had been submitted without the severe malnutrition diagnosis, resulting in an overpayment of \$4,952.

For the remaining three claims, we identified \$14,215 in overpayments because the medical records were missing the appropriate physician sign-off supporting the severe malnutrition diagnosis. The hospitals agreed these claims were incorrectly billed. By the end of our fieldwork, one hospital resubmitted its claim removing the severe malnutrition diagnosis. This resulted in a \$4,538 savings. Another hospital was planning on adjusting its incorrect claim. The remaining hospital did not indicate if it was going to adjust its claim.

During our fieldwork, we asked medical professionals from the Department to review 17 (of the 44) medical records from one hospital to determine the appropriateness of the severe malnutrition diagnosis. The medical professionals determined that the 17 medical records did not support the severe malnutrition diagnosis code on the hospital's claims.

## **Recommendations**

1. Review the remaining \$411,699 (\$416,237 - \$4,538) in overpayments and make recoveries, as appropriate.
2. Formally remind all hospitals to:
  - Ensure clinical assessments for severe malnutrition meet existing standards of professional practice;
  - Only bill for severe malnutrition that meets accurate clinical assessments and Medicaid billing rules; and
  - Properly document severe malnutrition in a patient's medical record.

## **Audit Scope, Objective, and Methodology**

The objective of our audit was to determine whether Medicaid made overpayments to hospitals that improperly billed APR-DRG inpatient claims containing a severe malnutrition diagnosis. The audit covered the period from January 1, 2013 through December 31, 2017.

To accomplish our audit objective and assess related internal controls, we interviewed officials from the Department and examined the Department's relevant Medicaid policies and procedures as well as applicable federal and State laws, rules, and regulations. We used the Medicaid Data Warehouse to identify APR-DRG inpatient claims billed by hospitals that included a severe malnutrition diagnosis. We calculated overpayments using APR-DRG Grouper software to determine if the allowed amount would change when the severe diagnosis code was not supported. We shared our methodology with officials from the Department and the Office of the Medicaid Inspector General during the audit for their review.

We selected a judgmental sample of 135 claims from four hospitals that routinely billed Medicaid for inpatient stays with a severe malnutrition diagnosis. We focused our sample on the highest-paying claims at each of the four hospitals that had 10 or fewer diagnosis codes. We requested and reviewed the medical records for these 135 claims to assess the appropriateness of the severe malnutrition diagnosis.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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.

## **Reporting Requirements**

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of the report. In their response, Department officials concurred with the audit recommendations and indicated the actions they will take to address them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive

Law, the Commissioner 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 why.

Major contributors to this report were Warren Fitzgerald, Daniel Towle, Rebecca Tuczynski, Kimberly Geary, Suzanne Loudis, and Karen Ellis.

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

Sincerely,

Andrea Inman  
Audit Director

cc: Mr. Daniel Duffy, Department of Health  
Mr. Dennis Rosen, Medicaid Inspector General

# Agency Comments



ANDREW M. CUOMO  
Governor

## Department of Health

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

March 12, 2019

Ms. Andrea Inman, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street – 11<sup>th</sup> Floor  
Albany, New York 12236-0001

Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2017-S-85 entitled, "Improper Medicaid Payments for Recipients Diagnosed with Severe Malnutrition."

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Sally Dreslin".

Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner

Enclosure

cc: Marybeth Hefner  
Donna Frescatore  
Dennis Rosen  
Erin Ives  
Brian Kiernan  
Timothy Brown  
Amber Rohan  
Elizabeth Misa  
Geza Hrazdina  
Daniel Duffy  
Jeffrey Hammond  
Jill Montag  
Ryan Cox  
James Dematteo  
James Cataldo  
Jessica Lynch  
DOH Audit SM

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Draft Audit Report 2017-S-85 entitled, "Improper Medicaid Payments  
for Recipients Diagnosed With Severe Malnutrition"**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's Draft Audit Report 2017-S-85 entitled, "Improper Medicaid Payments for Recipients Diagnosed With Severe Malnutrition."

**Recommendation #1:**

Review the remaining \$411,699 (\$416,237 - \$4,538) in overpayments and make recoveries, as appropriate.

**Response #1:**

The Office of the Medicaid Inspector General will review the identified overpayments and pursue recovery of any payment determined to be inappropriate.

**Recommendation #2:**

Formally remind all hospitals to:

- Ensure clinical assessments for severe malnutrition meet existing standards of professional practice;
- Only bill for severe malnutrition that meets accurate clinical assessments and Medicaid billing rules; and
- Properly document severe malnutrition in a patient's medical record.

**Response #2:**

The Department will publish a Medicaid Update reminding all hospitals of the obligation to:

- Ensure clinical assessments for severe malnutrition meet existing standards of professional practice;
- Only bill for severe malnutrition that meets accurate clinical assessments and Medicaid billing rules; and
- Properly document severe malnutrition in a patient's medical record.