NEW YORK STATE OF OPPORTUNITY. Department of Health

ANDREW M. CUOMO
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Commissioner

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Executive Deputy Commissioner

July 6, 2016

Ms. Andrea Inman
Audit Director
New York State Office of the State Comptroller
110 State Street, 11th Floor
Albany, New York 12236

Dear Ms. Inman:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2015-S-9 entitled, "Improper Payments for Recipients No Longer Enrolled in Managed Long Term Care Partial Capitation Plans."

Please feel free to contact Amy Nickson, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

Howard Zucker M.D.

Howard A. Zucker, M.D., J.D.
Commissioner of Health

Enclosure

cc: Ms. Nickson

Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2015-S-9 entitled,
Improper Payments for Recipients No Longer Enrolled in Managed Long Term Care Partial Capitation Plans

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2015-S-9 entitled, "Improper Payments for Recipients No Longer Enrolled in Managed Long Term Care Partial Capitation Plans."

Background

New York State (NYS) is a national leader in its oversight of the Medicaid Program. With the transition to care management, the Office of the Medicaid Inspector General (OMIG) continues to improve upon our processes and direct our resources to match this changing direction in the Medicaid program. In conjunction with the Department, NYS will continue its focus on achieving improvements to the Medicaid program and aggressively fighting fraud, waste and abuse wherever it exists.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality of care for its Medicaid members. Since 2011, Medicaid spending has remained under the Global Spending Cap, while at the same time providing health care coverage to an additional 1,405,500 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to $7,868 in 2014, consistent with levels from a decade ago.

General Comments

The Department is finalizing a process to support identifying improper capitation payments. In addition, Managed Long Term Care (MLTC) is working with OMIG to develop a policy to identify and recoup inappropriate capitation payments.

The key findings in OSC's report indicate if the Department revises its policy on the payment of capitation payments during disenrollment periods when Plans were "at risk" (provided medical services), the Medicaid program could realize significant savings. Specifically, if Medicaid paid for the cost of such health care services rather than capitation payments, we estimated that for the period January 1, 2010 through January 31, 2015, the Medicaid program could have saved approximately $3.1 million.

While the Department agrees with the recovery of improper payments for recipients no longer enrolled in a MLTC plan, reconciliation strategies designed to identify and recover inappropriate payments must incorporate the potential for agency error when identifying this population. In

performing a sample review of the cases identified for capitation returns, agency error was noted on a date of death in a client's file. The client died in March 2013; the disenrollment was entered for March 2012. Capitation payments were correctly paid throughout 2012 and for the first three months of 2013. The Plan did not bill beyond the month of death. This is noted because "at risk" and reconciliation strategies designed to identify and recover inappropriate payments will result in immediate cost reductions to the Department in the short run. However, policies developed to enforce these strategies must be done carefully to ensure that Plans are not penalized inaccurately. MLTC plans are not required to purchase reinsurance to provide a margin of safety

for high cost cases, nor does the Department require a cap on the expenditures for an individual member enrolled in a Plan. We need to construct policies that reclaim inappropriate payments, while working to ensure that Plans are not put in a position of financial risk because of agency errors.

Recommendation #1

Review the remaining $12 million in capitation payments we identified and recover overpayments as appropriate.

Response #1

OMIG has recovered $1.8 million of the $12 million, and will continue to recover any inappropriate payments that were identified.

Recommendation #2

Amend Plan contracts to specify a timeframe in which Plans are required to void inappropriate capitation payments for recipients who are disenrolled retroactively.

Response #2

The Department is currently working on amendments for MLTC contracts that will mirror the Medicaid Managed Care (MMC) 30 day timeframe to void claims. These amendments will be drafted in late 2016.

Recommendation #3

Enhance Department oversight to identify, monitor, and recover capitation payments for recipients who are disenrolled retroactively for the periods that Plans were not “at risk” for providing medical services.

Response #3

OMIG will continue to recover capitation payments for recipients who are disenrolled retroactively for the periods that Plans were not “at risk” for providing medical services.

Recommendation #4

Assess the impact of revising the Department’s policy on paying capitation amounts versus the cost of Plans’ medical expenses during periods when recipients were disenrolled retroactively and Plans were “at risk.” Based on the results of the assessment, consider revising the Department’s corresponding policy and amending MLTC contract language.

Response # 4

MMC and MLTC have engaged in a workgroup with OMIG to develop best strategies to address "at risk" and reconciliation strategies. Policy and potential contract changes will be made accordingly.