



Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

May 12, 2022

Andrea Inman
Audit Director
Division of State Government Accountability
NYS 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 2020-S-57 entitled, "Medicaid Program: Improper Supplemental Maternity Capitation Payments to Managed Care Organizations."

Please feel free to contact Sam Miller, Associate Commissioner for External Affairs at 917-783-0079 or sam.miller@health.ny.gov with any questions.

Sincerely,

Kristin M. Proud
Acting Executive Deputy Commissioner

Enclosure

cc: S. Miller

Department of Health Comments to Final Audit Report 2020-S-57 entitled, “Medicaid Program: Improper Supplemental Maternity Capitation Payments to Managed Care Organizations” by the Office of the State Comptroller

The following are the responses from the New York State Department of Health (the Department) to Final Audit Report 2020-S-57 entitled, “Medicaid Program: Improper Supplemental Maternity Capitation Payments (SMCP) to Managed Care Organizations (MCOs)” by the Office of the State Comptroller (OSC).

General Comments:

Audit Highlights, Key Findings (Page 1)

- *However, OMIG does not perform these audits in a timely manner, and its last such audit, with a scope period ended December 31, 2016, was not sufficiently inclusive to capture all improper SMCPs.*

The Office of the Medicaid Inspector General (OMIG) has performed SMCP audits since 2012 and continues to perform them on an ongoing basis. OMIG finalized 21 SMCP audits in 2018 and 2019, all of which had an audit scope period through December 31, 2016. Audits currently in process are addressing the subsequent timeframes, through 2018. To allow providers the authorized time to adjust or void any claims or encounters, there are customarily two years between the last date of service and the beginning of the OMIG audit period.

State Comptroller’s Comment – We encourage OMIG to perform these audits more timely in order to prioritize recoveries of Medicaid overpayments.

OMIG received audit findings from OSC in the amount of \$56,852,618 and performed a claim-by-claim review of supporting encounter data and member information for relevant Medicaid recipients, which resulted in the removal of almost half of the claims included in OSC’s Final Audit Report, as shown in the chart below.

State Comptroller’s Comment – We are pleased OMIG initiated a review of the audit findings and encourage OMIG to take the appropriate corrective action on all inaccurately paid claims. Of note, at the conclusion of our audit, we provided the Department and OMIG with an updated file of claims supporting the audit’s nearly \$55 million in findings (over \$26 million in improper payments and over \$28 million in questionable payments), as identified in the report. The analysis referenced in this 180-day response does not accurately reflect the updated findings, and OMIG should reconcile its conclusions with this file to ensure an accurate and complete review is performed.

The following list are examples of why some of OSC’s identified overpayments were considered “paid appropriate” upon further review by OMIG auditors:

- Encounter evidence supporting a live birth.
- Encounter evidence demonstrating greater than 20 weeks gestation.
- Encounter evidence of an uncomplicated delivery.
- Encounter evidence of a live birth and member data indicating a baby associated with the mother.
- Evidence on member data of baby with appropriate date of birth.
- Corresponding inpatient claim or encounter was found to support the SMCP.

Category Description	OSC DOLLARS	OMIG REVIEWED	CLAIMS PAID APPROPRIATELY
SMCPs 1 to 6 Months Before a Live Birth, as Indicated on a Corresponding GME and Encounter	\$2,410,091.47		\$2,410,091.47
SMCPs that had two corresponding encounters: one with a termination-only diagnosis and one with a termination and live/still birth diagnosis	\$277,536.07	\$277,536.07	\$27,167.97
SMCPs where the corresponding GME claim had a diagnosis indicating the maternity case ended in a termination (21 duplicate claims removed)	\$2,774,363.90	\$2,567,925.54	\$471,691.82
SMCPs where the corresponding GME claim had a diagnosis indicating the maternity case ended in both a termination and a live/still birth	\$2,890,865.01	\$2,890,865.01	\$1,099,755.32
SMCPs where the corresponding MCO encounter claim had a diagnosis indicating the maternity case ended in a termination	\$4,063,091.93	\$4,063,091.93	\$1,983,769.62
SMCPs where the corresponding MCO encounter claim had a diagnosis indicating the maternity case ended in both a termination and a live/still birth	\$627,869.47	\$627,869.47	\$295,281.95
SMCPs with a corresponding encounter claim that did not indicate a termination or miscarriage, but did indicate <20 weeks gestation	\$9,938,106.64	\$9,938,106.64	\$8,942,701.06
SMCPs with a corresponding GME that did not indicate a termination or miscarriage, but did indicate <20 weeks gestation	\$4,758,617.99	\$4,758,617.99	\$2,511,118.32
SMCPs Without Corresponding Encounters Within 31 Days of SMCP (103 voided claims removed)	\$29,112,076.00	\$28,209,020.45	\$10,727,398.71
Totals	\$56,852,618.48	\$53,333,033.10	\$28,468,976.24
103 voided claims removed		\$903,055.42	
21 duplicate claims removed		\$206,438.36	
SMCPs 1 to 6 Months Before a Live Birth, as Indicated on a Corresponding GME and Encounter-NOT REVIEWED		\$2,410,091.47	
Totals	\$56,852,618.48	\$56,852,618.35	\$28,468,976.24

Recommendation #1:

Review the \$205,323 in unadjusted SMCPs where the MCOs agreed they were not entitled to the payments and make recoveries as appropriate.

Response #1:

OMIG performs audits of SMCPs on an ongoing basis. This project historically looked to identify instances where there was not encounter data supporting the SMCP. It did not specifically look for SMCPs associated with terminations, miscarriages, or gestation less than twenty weeks. OMIG is reviewing these areas for potential inclusion in future audits. OMIG will perform its own extraction of data from the Medicaid Data Warehouse (MDW), which may include those OSC-identified overpayments not already adjusted or recovered, to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #2:

Review the \$52,447,910 in SMCPs to MCOs that did not meet the criteria outlined in the Contract – beginning with the high-risk subpopulations discussed in this report – and determine an appropriate course of action, including making recoveries as well as requiring MCOs to submit missing encounter claims and reversing any unsupported SMCPs.

Response #2:

OMIG performs audits of SMCPs on an ongoing basis. Based on the information in the chart displayed in the General Comments section, OMIG performed its own data analysis and will pursue any remaining identified inappropriate payment for recovery. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #3:

Formally remind MCOs of the SMCP Contract criteria for payment.

Response #3:

The Department is evaluating and verifying internal procedures, reviewing data and developing guidance to remind and/or instruct MCOs regarding the definition of a miscarriage as it relates to gestational age, the gestational age diagnosis codes on inpatient encounters to ensure that SMCPs are appropriately billed, that SMCPs may only be claimed for the appropriate delivery services for the dates on which they occurred, and that encounter data for delivery services related to SMCPs must be submitted prior to billing for such SMCPs.

Recommendation #4:

Ensure the 10 MCOs identified in this audit take corrective steps to resolve the identified problems in their claims processing systems pertaining to improper SMCP claims.

Response #4:

The Department is working with the 10 MCOs identified in this audit to ensure that they take corrective steps to resolve the identified problems in their claims processing systems pertaining to improper SMCP claims.

Recommendation #5:

Routinely monitor the accuracy of SMCP claims and take formal corrective actions with non-compliant MCOs including, but not limited to, those that:

- Do not submit encounter data as evidence of maternity care and delivery services before billing for SMCPs; and
- Submit claims for SMCPs that have conflicting supporting encounter information (such as conflicting dates of birth and encounter data that indicates maternity cases ended in termination or miscarriage).

Response #5:

The Department is exploring the viability of developing a process that would compare the SMCP payments to the corresponding encounter data. The SMCP payments are made within the eMedNY system, while encounter records are reported by health plans through the Encounter Intake System. A systematic cross walk between the two systems currently does not exist.

Recommendation #6:

Ensure OMIG updates its audit processes for identifying improper SMCPs. Updates should include, but not be limited to:

- Performing audits more timely;
- Using all applicable diagnosis codes; and
- Examining the higher-risk categories identified in our audit, including:
 - When the corresponding GME or encounter claim indicates termination or miscarriage and a gestation period of less than 20 weeks;
 - When the corresponding GME or encounter claim indicates a gestation period of less than 20 weeks and there is no CIN within the mother's Medicaid case that has a date of birth within 31 days of the SMCP service date; and
 - When there is no corresponding encounter claim of a live birth or stillbirth that occurred within 31 days of the SMCP service date and there is no CIN within the mother's Medicaid case that has a date of birth within 31 days of the SMCP service date.

Response #6:

OMIG performs audits of SMCPs on an ongoing basis. OMIG is reviewing these areas for potential inclusion in future audits. To allow providers with the authorized time to adjust or void any claims or encounters, OMIG begins its audit period two years after the last date of service. OMIG's experience in this area has found that claim type codes and service dates in encounter data can be unreliable and that a more comprehensive review, including additional claim type codes, service codes, diagnostic codes, diagnosis-related group (DRG) codes, procedure

codes, and other factors, is a more effective way to identify inappropriate SMCPs. While ideally the encounter record would be accurate, OMIG would point out that the purpose of this review is not to evaluate the correctness of encounter data, but instead the appropriateness of SMCPs. OMIG has found it more effective to look at the preponderance of evidence within the encounter data to make such determinations regarding SMCPs.

OMIG already includes encounters with an inpatient or clinic claim type code and examines the encounter to determine if the diagnostic codes, procedure codes, or DRGs indicate a birth as part of its reviews of SMCPs. OMIG also looks for encounters with a category of service for a physician/midwife that contain one of the DRG, diagnostic, or procedure codes that indicates a birth, and where there is also an inpatient or clinic claim occurring within 5 days of the physician or midwife claim. OMIG also reviews fee-for-service claims to identify instances where an SMCP may be inappropriate.