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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

April 12, 2023

James V. McDonald, M.D., M.P.H.
Acting Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Improper Payments of Medicare
Buy-in Premiums for Ineligible
Recipients
Report 2022-F-37

Dear Dr. McDonald:

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, *Improper Payments of Medicare Buy-in Premiums for Ineligible Recipients* (Report [2020-S-35](#)).

Background, Scope, and Objective

The Department administers New York's Medicaid program. Many Medicaid recipients are also enrolled in Medicare. Under the Medicare buy-in program (Buy-in Program), administered by the Centers for Medicare & Medicaid Services (CMS), Medicaid pays Medicare premiums for individuals who meet Buy-in Program eligibility requirements. The State's Local Departments of Social Services (Local Districts) determine eligibility and authorize and process enrollment in the Buy-in Program. When an individual is eligible for the Buy-in Program, Local Districts use the State's Welfare Management System (WMS) to transmit their eligibility and enrollment information to the Department's Medicaid claims processing system, eMedNY. In addition, based on information from the Social Security Administration (SSA), CMS automatically enrolls certain individuals into the Buy-in Program. Medicaid should not pay premiums for Buy-in Program coverage on behalf of individuals who do not have a benefit eligibility period – a date range for which the individual has Medicaid eligibility or Buy-in Program-only eligibility – established in eMedNY. For the period January 2020 through January 2023, there were 939,534 Medicaid recipients in the Buy-in Program.

The objective of our initial audit, issued November 29, 2021, was to determine if Medicaid made improper Medicare premium payments on behalf of recipients enrolled in the Buy-in Program. The audit covered Medicaid payments for individuals enrolled in the Buy-in Program for the period from January 1, 2015 through December 31, 2019 and associated Medicare Buy-in Program credits from January 1, 2015 to November 30, 2020. We determined the Department had not established sufficient controls to ensure timely Buy-in Program eligibility

determinations and to prevent improper premium payments. We determined Medicaid made \$31.7 million in improper Medicare premium payments for individuals who did not have a benefit eligibility period established in eMedNY. We also determined Medicaid paid \$23.6 million in premiums for individuals who were automatically added to the Buy-in Program by CMS with coverage beginning more than two years retroactively, despite limitations on premium liability beyond two years. Accordingly, the State may have been eligible for equitable relief from CMS for its share of \$13 million in premiums paid beyond the two years. Furthermore, Medicaid paid \$372,716 in Medicare premiums for 282 individuals identified as deceased.

The objective of our follow-up was to assess the extent of implementation, as of March 15, 2023, of the five recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials have made some progress in addressing the problems we identified in the initial audit report; however, additional actions are needed. In particular, the Department had not yet reviewed the individuals identified by our audit who had active Buy-in Program coverage but did not have a benefit eligibility period in eMedNY. Of the initial report's five audit recommendations, two have been implemented, two had been partially implemented, and one had not yet been implemented.

Follow-Up Observations

Recommendation 1

Formally remind Local Districts to ensure all individuals enrolled in the Buy-in Program by CMS (retroactively and non-retroactively) have corresponding benefit eligibility periods in eMedNY.

Status – Implemented

Agency Action – Our initial audit found Local Districts did not take steps to ensure proper benefit eligibility periods were created in eMedNY for all individuals enrolled in the Buy-in Program, and that Buy-in Program coverage was terminated in eMedNY timely for those who were no longer eligible for the benefit. The Department published two General Information System (GIS) messages in May 2021 and two in February 2023. The GIS messages reminded Local Districts about: the need to review and take appropriate action on an existing monthly report that identifies individuals whose benefit eligibility period has expired but for whom Medicaid continues to pay premiums, including establishing Medicaid eligibility to support the coverage if the individual should remain in the Buy-in Program; the WMS codes that automatically close an individual's Buy-in Program coverage; a new WMS code being designated as an auto-close code; and the need to manually close Buy-in Program coverage for individuals transitioning from Local Districts to the NY State of Health.

Recommendation 2

Increase communication with and oversight of Local Districts to ensure timely closure of Buy-in Program cases. Take actions to:

- *Formally remind Local Districts to promptly close ineligible individuals' Buy-in Program coverage in eMedNY.*
- *Develop an information-sharing process between all Department stakeholders to ensure knowledge and use of all closing codes that the Department designates as auto-close*

codes to end Buy-in Program coverage and that, when new closing codes are added or modified within WMS, the Department is notified promptly to evaluate the impact of the code changes on the Buy-in Program and, if appropriate, designate such closing codes as auto-close codes within eMedNY.

- *Design and develop compensatory controls for timely identification and resolution of Buy-in Program cases not closed via the auto-close process.*
- *Prevent improper premium payments for individuals who are currently not identified by the Department's monthly report, including individuals who were retroactively added to the Buy-in Program for months in which they did not have a benefit eligibility period.*

Status – Implemented

Agency Action – The initial audit found that better communication and coordination of effort between the Department and Local Districts was needed to help ensure Medicaid pays Buy-in Program premiums only for eligible recipients. In response, the Department has taken the following actions:

- Published a GIS message in May 2021 reminding Local Districts of the need to promptly close ineligible individuals' Buy-in Program coverage in eMedNY.
- Developed an information-sharing process with Local Districts. This process evaluates new WMS codes to determine if the codes should be added to the auto-close list to close the Buy-in Program.
- Implemented a change in December 2021 to automatically void certain SSA-initiated transactions that add individuals to the Buy-in Program. Department staff monitor reports from this project and then process the Buy-in Program transactions that correctly align with the individuals' benefit eligibility periods.
- Improved the accuracy of the monthly report that identifies individuals whose benefit eligibility period has expired but for whom Medicaid continues to pay premiums by better matching recipients to the monthly report.

Recommendation 3

Review the individuals identified by our audit who have active Buy-in Program coverage but do not have a benefit eligibility period in eMedNY, and promptly remove them from the Buy-in Program, as warranted.

Status – Not Implemented

Agency Action – Our initial audit found Local Districts did not take steps to ensure that proper benefit eligibility periods were created in eMedNY for all individuals enrolled in the Buy-in Program and that Buy-in Program coverage was terminated timely in eMedNY for those who were no longer eligible for the benefit. The Department stated that, due to the coronavirus disease 2019 public health emergency, Buy-in Program removal was currently pending and, therefore, individuals had not been removed. The Department plans to start Buy-in Program removal in July 2023.

Recommendation 4

Review and recover premiums pertaining to the \$372,716 paid for individuals identified as deceased, as warranted.

Status – Partially Implemented

Agency Action – The initial audit found Medicaid made \$372,716 in premium payments to purchase Medicare coverage for 282 individuals identified as deceased by eMedNY and/or an independent verification service. The Department reviewed the individuals and premiums, including comparing the dates of death between the State Online Query, Enrollment Medicare Online, and eMedNY. Department officials identified \$57,358 in Buy-in Program credits, and also requested \$44,684 in recoveries from CMS. Department officials determined \$215,753 cannot be recovered because the date of death in eMedNY was incorrect. The Department is reviewing the remaining \$54,921 to determine if it can be recovered.

Recommendation 5

Follow up with CMS to request payment relief on the Department's portion of \$13 million pertaining to the 3,439 cases of retroactive automatic additions of eligibility that exceeded the allowed two-year limit for retroactivity. Implement corresponding processes to identify these transactions and request payment relief from CMS going forward.

Status – Partially Implemented

Agency Action – The initial audit identified 3,439 individuals who were automatically added to the Buy-in Program by CMS retroactively for more than two years. According to the Department, Medicaid premium liability cannot be greater than two years, and the State can request payment relief on retroactive additions of Supplemental Security Income recipients when the retroactivity extends beyond the two-year limit. The Department contacted SSA in July 2022 to request payment relief on the Department's portion of the \$13 million. Payment relief was still pending with SSA and CMS at the time of our follow-up. Additionally, the Department stated it is developing a database to identify retroactive Buy-in Program additions that exceed the limit for retroactivity and request equitable relief.

Major contributors to this report were Thomas Sunkel and Emily Proulx.

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 thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this follow-up.

Sincerely,

Mark Breunig
Audit Manager

cc: Melissa Fiore, Department of Health
Frank Walsh, Jr., Acting Medicaid Inspector General