



Medicaid Integrity Group

January 14, 2009

Deborah Bachrach
Deputy Commissioner
New York State Department of Health
Room 1466, Empire State Plaza, Corning Tower
Albany, NY 12237

Dear Ms. Bachrach:

CMS' Medicaid Integrity Group (MIG) conducted a follow-up program integrity review of the New York State Medicaid Program targeting compliance with findings and vulnerabilities discovered during its 2005 comprehensive review of the New York State Medicaid Program.

The MIG conducted the onsite portion of the review at the offices of the Office of Medicaid Inspector General (OMIG) in Albany on August 12, 2008. The MIG review team also visited the office of the Medicaid Fraud Control Unit (MFCU) in New York City on August 14, 2008.

The follow-up review showed that New York has addressed the two areas of non-compliance related to 42 CFR §§ 455.105(a) and 455.106(b). However, compliance was only recently effected in enrollment procedures and systems for obtaining the required disclosure information by fee-for-service providers. The relatively new creation of the New York OMIG in 2006 and issues with coordination of State policies and a start-up administrative organization were cited by OMIG as delaying factors.

The four areas of vulnerability noted in 2005 have also received attention from the State. Authorized staffing for OMIG has increased and it appears, despite several vacancies, that OMIG has a solid staff foundation, including core clinical staff, to support investigations. Ongoing concerns are recent New York budget constraints with hiring freezes and difficulty recruiting accounting professionals.

Overall audit recoveries reportedly have increased since the 2005 review. However, New York is now including the five categories of Provider, Rates AM&D, Systems Match & Recovery, County Audits, and School Medicaid, to capture recoveries rather than the two categories, fee-for-service and rate-based, used in 2005.

Notably, provider sanction activity has more than doubled from 2005 levels.

Interaction between OMIG and the MFCU has also improved since 2005. Both units expressed satisfaction with the increased number and quality of case referrals, as well as regular and improved communication. The Memorandum of Understanding between OMIG and the MFCU is in need of updating. Both units stated that a revision is in process.

Several effective practices were noted during the review. OMIG provides an increased scrutiny of business enrollments. It conducts onsite reviews of all durable medical equipment providers statewide and pharmacies in the New York City area. It also collects additional information from business enrollments in order to reveal additional or originally undisclosed business relationships. During audits, it correlates related parties disclosed in tax documents with New York enrollment documents and scrutinizes certified public accountant work papers for disclosure information and fraud risk assessment.

Other effective practices include the use of undercover investigators posing as Medicaid recipients in New York City, regular use of OMIG clinical staff to assist in investigations alongside OMIG investigators, and a procedure to double check that requested edits to stop payments have been quickly entered into the Medicaid payment system.

Based on the team's observations and analysis, the MIG believes that New York has satisfactorily addressed the specific issues cited in 2005. The MIG will be scheduling a comprehensive review of New York State's Medicaid program integrity procedures during Federal fiscal year 2010. During the comprehensive review, CMS will assess compliance with the full range of Medicaid program integrity regulations and procedures and will assess the effectiveness of the State's Medicaid program integrity systems.

I want to thank you again for your cooperation and assistance throughout the review process.

Sincerely,

/s/

David Frank
Director

cc: James Sheehan, Medicaid Inspector General
Heidi Wendel, Medicaid Fraud Control Unit Director
Herb B. Kuhn, Acting Director for Center for Medicaid & State Operations
Jackie Garner, CMS Medicaid Consortium Administrator
Sue Kelly, Associate Regional Administrator