



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF GOVERNMENT AFFAIRS

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GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

BEN POPKIN
ASSISTANT SECRETARY FOR LEGISLATION

March 30, 2017

SENT VIA ELECTRONIC MAIL

The Honorable Phil Berger, Co-Chair
Joint Legislative Commission on
Governmental Operations
North Carolina General Assembly
Room 2007, Legislative Building
Raleigh, NC 27601

The Honorable Tim Moore, Co-Chair
Joint Legislative Commission on
Governmental Operations
North Carolina General Assembly
Room 2304, Legislative Building
Raleigh, NC 27601

Dear Chairmen:

North Carolina General Statute §143B-216.51(g) requires the Department of Health and Human Services' Office of Internal Auditor to monitor implementation of monitor the implementation of the Department's response to any audit of the Department conducted by the State Auditor pursuant to law and to issue a report to the Secretary on the status of corrective actions implemented no later than six months after the State Auditor publishes any audit report pursuant to law. The law also requires that a copy of this report be filed with the Joint Legislative Commission on Governmental Operations pursuant to the General Statute. In accordance with the requirement found in General Statute §143B-216.51(g), please find the attached reports.

Should you have any questions regarding the report, please contact Chet Spruill, Director of the Office of the Internal Auditor, at 919-855-3662.

Sincerely,

Ben Popkin
Assistant Secretary for Legislation

cc:	Chet Spruill	Denise Thomas	Marjorie Donaldson	Kolt Ulm
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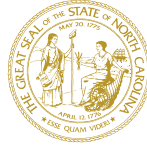
Office of the Internal Auditor
HEALTH AND HUMAN SERVICES

Follow-up Assessment of the Medicaid Durable Medical
Equipment Claims Performance Audit

Issued by the Office of the State Auditor,
August 4, 2016

February 3, 2017

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DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INTERNAL AUDITOR

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

CHET SPRUILL
DIRECTOR

February 03, 2017

Secretary Mandy Cohen, MD, MPH
N.C. Department of Health and Human Services
Adams Building, 101 Blair Drive
Raleigh, NC 27603

The Office of the Internal Auditor (OIA) has conducted a follow-up assessment of the findings and recommendations identified in the performance audit of the Department of Health and Human Services Medicaid Durable Medical Equipment Claims, PER-2015-4445. The report was issued by the Office of the State Auditor (OSA) on August 4, 2016.

Conclusion

OIA observed sufficient evidence to conclude that the Department of Health and Human Services (Department) has taken some action to reduce the risks identified by the four findings noted in OSA's audit report. The Department has adjusted their completion dates for the implementation of the corrective action plans and recommendations. OIA will follow up with the Department to assure their work activities reduce the risk that the findings would continue to exist in subsequent periods. A summary of each of OSA's findings and recommendations and OIA's observed results are included in Appendix A.

Objective

The objective of our follow-up assessment was to evaluate whether the Department has taken appropriate corrective action in response to OSA's findings and recommendations. Our follow-up assessment was conducted pursuant to G.S. 143B-216.51(g). The General Statute requires OIA to issue a report to the Secretary on the status of corrective actions taken by the Department of Health and Human Services no later than six months after the State Auditor publishes any audit report pursuant to law. A copy of this report shall also be filed with the Joint Legislative Commission on Governmental Operations pursuant to the General Statute.

Scope

The scope of our follow-up assessment encompasses the review of all activities directed toward the resolution of the risks associated with the findings and recommendations as provided by OSA, as well as management's action plan from the original audit report.

Methodology

In order to form an opinion on the status of each of the four findings identified, we performed the following functions:

- We reviewed OSA's audit report in order to gain a better understanding of the findings.
- We discussed with Department management the basis for any findings and the corrective actions which were to be implemented.
- We conducted subsequent tests to evaluate whether corrective actions taken by the Department were implemented and reduce the risk that the finding would continue to exist in subsequent periods.

We express our appreciation to the management and staff of the Department of Health and Human Services and the Office of the State Auditor for their cooperation and assistance provided during this follow-up assessment.

Chet Spruill,
Director, Office of the Internal Auditor

APPENDIX A

SUMMARY OF OSA'S FINDINGS AND RECOMMENDATIONS AND OIA'S FOLLOW-UP RESULTS

1. OSA FINDING AND RECOMMENDATION - THE DEPARTMENT OMITTED ACCURACY STANDARDS AND CHANGED PAYMENT METHOD FROM CONTINGENCY TO HOURLY FOR POST-PAYMENT REVIEWS, DESPITE KNOWN PROBLEMS WITH CONTRACTOR WORK

The Department omitted prior contract terms in its new contract with Public Consulting Group (PCG) that would have continued to protect the State's interest. This contract was executed in November 2013. Specifically, the Department omitted claim review accuracy targets despite finding errors with PCGs claims review during the prior contract term. The Department also agreed to a change in compensation terms from a contingency basis (pay for results) to an hourly rate. (paraphrased)

OSA recommended the Department should:

- a. Evaluate and regularly monitor its practices to ensure contracts include terms necessary to compensate post-payment contractors based on performance with contract requirements.
- b. Ensure that contracts included performance measures and targets for claim review accuracy.
- c. Ensure that contractor compensation is tied to acceptance of deliverables or the final product when possible.
- d. Ensure that contract negotiations are documented and that the documentation is maintained for reference and audit.

Agency Response (paraphrased)

As noted in the Auditor's report, claims for durable medical equipment during State Fiscal Year (SFY) 2015 totaled \$170 million, constituting less than 2% of total Medicaid expenditures of \$11.5 billion.

The Department agrees that contract terms used to compensate post payment contractors should be based on their performance adherent to specific contract requirements.

While the existing PCG contract includes certain performance requirements, the Department agrees that the contract referenced in this finding could be strengthened. In particular, the inclusion of performance standards specific to claim review accuracy should be set out in the contract and be one of the required conditions associated with the acceptance of contract deliverables.

The Department has been in review of the PCG contract since December of 2015. As a result of the review process, the Division of Medical Assistance (DMA) identified opportunities to strengthen the performance measures associated with the work performed under the contract including the area of claim review accuracy. It is anticipated that these performance requirements and remedies for non-performance will be established in contract within the second quarter of SFY 2017.

The Department agrees that contract negotiations should be documented on material points and the documents should be maintained for management, audit and reference purposes. Documentation related to these activities is currently being maintained accordingly.

OIA Follow-up Results

The Department has not fully implemented all actionable items noted in its Agency Response. The Department is currently in negotiations involving the post payment review contract with PCG. OSA recommended provisions for performance targets for claims review accuracy and measures tying contractor compensation to the acceptance of deliverables are expected to be included in the terms of the new contract. The Department indicated that it anticipates reaching an agreement with the vendor by February 28, 2017.

OIA held a meeting with the Director of DMA Compliance and Program Integrity and other appropriate Department staff members on December 13, 2016 to discuss the response to OSA's audit report. The Department hired a vendor contract manager and provided a copy of the position description as evidence of its intention to strengthen its contract oversight role. OIA reviewed emails between Department staff and PCG as evidence that material points of contract negotiations are being maintained.

When the planned actions are fully implemented, OIA feels the Department will have taken adequate steps to resolve the risks associated with the OSA's findings and recommendations. OIA considers this finding partially resolved.

2. OSA FINDING AND RECOMMENDATION - THE DEPARTMENT DID NOT EVALUATE THE ACCURACY OF POST-PAYMENT REVIEWS THAT THE CONTRACTOR PERFORMED OF DURABLE MEDICAL EQUIPMENT CLAIMS

The Department did not evaluate the accuracy of reviews made by PCG of durable medical equipment claims. Federal agencies designated Medicaid claims for durable medical equipment as high risk. In fact, CMS found durable medical equipment claims had 12.0% and 39.9% improper payment rates in the Children's Health Insurance Program and Medicare programs, respectively.

The State paid about \$170 million in state fiscal year 2015 for Medicaid claims.

PCG reviewed all types of Medicaid claims including durable medical equipment claims, however, the Department did not select for evaluation any post-payment reviews of durable medical equipment claims. The Department's Program Integrity Section conducted 25 quality assurance review evaluations between June 2012 and January 2014. These evaluations included 69 PCG reviews, none of which consisted of durable medical equipment claims. (paraphrased)

OSA recommended the Department should:

- a. Evaluate and regularly monitor its methods to ensure the Medicaid post-payment review contractor is complying with contract performance standards.
- b. Use statistical sampling to evaluate contractor post-payment reviews.
- c. Use sample selection methods that factor high risk provider types.

Agency Response (paraphrased)

The Department agrees with the State Auditor's finding that the Department did not evaluate contractor accuracy of post-payment reviews specific to durable medical equipment covering the period of this audit. Although not targeted specifically to durable medical equipment, DMA's review of PCG's post payment reviews was based on a sample of all claims. The Department further agrees that DMA should regularly monitor its methods to ensure that Medicaid post-payment reviews comply with contract performance standards.

Since the initial execution of the PCG contract, the DMA Office of Compliance and Program Integrity has held biweekly and ad-hoc meetings as necessary with the vendor to provide oversight, guidance and review of the work done under the contract in addition to evaluating vendor performance. Additionally, DMA has historically performed quality assurance testing on post payment cases in order to evaluate the effectiveness of the contractor's performance. Notwithstanding, the Department agrees that there are opportunities to improve the methodology and precision associated with the sample selection processes for post-payment quality assurance reviews. The Department has implemented changes to the sampling process to assure that a larger number of cases will be selected for review on a quarterly basis. This change was implemented in the fourth quarter of SFY 15-16, covering vendor work that was performed during the months of October through December of 2015.

The Department will also adopt a process to formalize prioritization of post-payment casework based upon the risk inherent to each service type within the Medicaid program. This will assure that post-payment casework and accordingly, quality assurance reviews are driven by and directly correlated to service based risk factors. This change will be implemented during second quarter of SFY 2017.

The Department agrees that durable medical equipment is considered a high risk service area. It is also important to note that one of the factors to be considered in the evaluation of risk by service type is the overall level of expenditure by service type. As mentioned in the Auditor's report, "the number of durable medical equipment claims is small compared to the total of all other Medicaid provider type claims." In SFY 15, durable medical equipment expenditures represented less than 2% of Medicaid service expenditures. While durable medical equipment services will remain a high priority for post payment reviews based on a number of risk factors, the share of quality assurance reviews dedicated to durable medical equipment services will also be correlated directly to the relative size and risk factors associated with all other Medicaid services, the same priority which will be used to prioritize post-payment work.

OIA Follow-up Results

The Department has not fully implemented all actionable items noted in its Agency Response. The Department is currently in the process of implementing a risk-based model of sample selection. The Department has not implemented OSA's recommendation to evaluate and regularly monitor its methods to ensure the contractor is complying with contract performance standards. The Department indicated a process to review the results of quarterly Quality Assurance (QA) reviews in order to ensure the contractor is meeting performance standards is scheduled to be implemented by March 31, 2017.

OIA held a meeting with the Director of DMA Compliance and Program Integrity and other appropriate Department staff members on December 13, 2016 to discuss the response to OSA's audit report. The Department provided a description of the statistical report section and the sample pulled for April through June 2016. The Department also provided information regarding the updated QA process, which included: Vendor Audit Tool; QA process meeting notes; and a QA review training PowerPoint presentation. Finally, the Department provided a copy of the Service Area Risk-Based Matrix and the associated description which explains the scoring of risk for each service area, including durable medical equipment.

When the planned actions are fully implemented, OIA feels the Department will have taken adequate steps to resolve the risks associated with the OSA's findings and recommendations. OIA considers this finding partially resolved.

3. OSA FINDING AND RECOMMENDATION - THE DEPARTMENT DID NOT HAVE A FORMAL QUALITY ASSURANCE PROCESS TO EVALUATE THE ACCURACY OF CONTRACTOR'S PREPAYMENT REVIEWS

The Carolina's Center for Medical Excellence (CCME) provided monthly performance reports of its own internal quality assurance reviews of all Medicaid claims to demonstrate to the Department that the contract performance standard were being met. CCME's contract specifies, "contractor shall maintain an accuracy rate and inter-rater reliability confidence level of 95%. In any month, the contractor is allowed a 5% margin of error."

The Department did not mitigate the risk of self-assessments (positive rater bias) by:

- Testing the validity of the information provided in the self-assessments
- Performing evaluations themselves or by an independent party

The Department did not perform independent evaluations, resulting in an increased risk that poor contractor performance was not identified and corrected to ensure that improper Medicaid claims were prevented and associated claim costs were not incurred by the State. (paraphrased)

OSA recommended the Department should:

- a. Direct the Program Integrity Section to select a random sample of claims to evaluate the accuracy of CCME prepayment claim reviews.
- b. Evaluate and regularly monitor its methods to ensure the Medicaid prepayment review contractor is complying with contract performance standards.

Agency Response (paraphrased)

The Department agrees that a formal quality assurance process should be adopted to evaluate the accuracy of the contractor's prepayment reviews.

The Department would note that since the initial execution of the CCME contract, the Office of Compliance and Program Integrity (OCPI) has held biweekly and ad-hoc meetings as necessary with the vendor to provide oversight and guidance of the work done under the contract in addition to evaluating vendor performance.

In addition, over the life of this program, OCPI has historically met as needed with the vendor to review individual provider cases in order to examine approvals and denials of claims, to address provider concerns and to educate providers. Additionally, in preparation for reconsideration reviews and contested case hearings, OCPI has reviewed claims denials and approvals, notes of concerns, communications logs, provider reports, and provider documentation submitted during prepayment reviews in order to determine the accuracy of work by the vendor.

Notwithstanding, DMA agrees that the inclusion of a standardized and routine process to review prepayment activities performed under the contract will enhance the Department's ability to monitor and manage the oversight of the contract and validate performance standards.

The Department has developed and implemented a process to ensure quality assurance by testing of a statistically valid sample of pre-payment cases. The process has been formalized and documented for inclusion in the DMA, OCPI Operations Manual.

During the fourth quarter of SFY 15-16, the Office of Program Integrity completed a review of a statistically valid sample of cases from work performed by the vendor for the months of October through December 2015. The review resulted in a vendor accuracy of over 95% for this period. Quality assurance reviews will continue to be completed on a quarterly basis using the newly implemented standardized process.

OIA Follow-up Results

The Department has not fully implemented all actionable items noted in its Agency Response. The Department has implemented a sample selection methodology for CCME prepayment reviews and provided documentation to demonstrate independent evaluation of the reviews. However, the Department was unable to provide an accuracy rate for the quarter sampled to determine if CCME met the OSA referenced contract performance standard of 95%.

The Department has not implemented OSA's recommendation to evaluate and regularly monitor its methods to ensure the contractor is complying with contract performance standards. The DMA Office of Compliance and Program Integrity Contract Manager will begin reviewing the results of the quarterly QA reviews to ensure the contractor is meeting their respective contract performance standards by March 31, 2017.

OIA held a meeting with the Director of DMA Compliance and Program Integrity and other appropriate Department staff members on December 13, 2016 to discuss the response to OSA's audit report. The Department provided evidence of the sample selection methodology, the claims review process, and the sample pulled for April 2016 through June 2016. OIA requested the calculated accuracy rate for the sample, which the Department was unable to provide.

When the planned actions are fully implemented, OIA feels the Department will have taken adequate steps to resolve the risks associated with the OSA's findings and recommendations. OIA considers this finding partially resolved.

4. OSA FINDING AND RECOMMENDATION - THE DEPARTMENT EXCLUDED PENALTIES FOR NONPERFORMANCE CIRCUMSTANCES FROM ITS MEDICAID CLAIMS PREPAYMENT REVIEW CONTRACT

The Department did not specify in the contract how much the compensation to CCME would be reduced for not meeting performance standards for prepayment reviews. The contract stated that in any month, "An error rate greater than 5% shall result in a reduction in the Contractor's compensation."

OSA recommended the Department should:

- a. Evaluate and regularly monitor its practices to ensure contracts include terms necessary to compensate prepayment contractors based on performance with contract requirements.
- b. Ensure that contracts include specific corrective actions to reduce contractor compensation for noncompliance with claim review accuracy standards and targets.
- c. Ensure that contracts include a dispute resolution process.
- d. Ensure that contract negotiations are documented and that the documentation is maintained for reference and audit.

Agency Response (paraphrased)

The Department agrees with the finding that penalties for non-performance of the Medicaid claims prepayment review were excluded from the contract.

The current prepayment contract requires the vendor to maintain an accuracy rate of 95%. The Department agrees that including language to specify corrective action and the impact to compensation for non-performance is one of several approaches that could strengthen the contract terms and reduce the risk for disputes associated with non-performance. Under normal circumstances the State does not enter into binding arbitration. The Department favors language allowing the State to recover its actual damages as a means to strengthen contract terms and encourage vendor performance.

The Department is currently in the process of reviewing the CCME contract. As a result of the review, DMA identified opportunities to provide additional specificity to the contract with regard to penalties for non-compliance associated with the work performed. It is anticipated that these requirements will be incorporated by amendment into the contract in the second quarter of SFY 2017.

The Department agrees that contract negotiations should be documented on material points and the documents should be maintained for management, audit and reference purposes. Documentation related to these activities is currently being maintained accordingly.

OIA Follow-up Results

The Department has fully implemented the items detailed in its Agency Response. OIA held a meeting with the Director of DMA Compliance and Program Integrity and other appropriate Department staff members on December 13, 2016 to discuss the response to OSA's audit report. The Department hired a vendor contract manager and provided a copy of the position description as evidence of its intention to strengthen its contract oversight role. The Department also provided a copy of CCME contract amendment #8 which adds terms to reduce the contractor's pay if the contractor achieves an error rate greater than five percent. The Department provided evidence that demonstrates contract negotiations are documented and maintained for reference and audit.

The Department has not implemented OSA's recommendation to ensure that contracts include a dispute resolution process. The Department vendor contract template now includes a dispute resolution process, however, the process will not be added to the current contract with CCME. The Department intends to include the dispute resolution process in the next contract, which is expected to become effective on or before July 1, 2017.

When the planned actions are fully implemented, OIA feels the Department will have taken adequate steps to resolve the risks associated with the OSA's findings and recommendations. OIA considers this finding partially resolved.