Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

QUESTIONABLE BILLING FOR MEDICAID PEDIATRIC DENTAL SERVICES IN NEW YORK

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EXECUTIVE SUMMARY: QUESTIONABLE BILLING FOR MEDICAID PEDIATRIC DENTAL SERVICES IN NEW YORK
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WHY WE DID THIS STUDY

Medicaid is the primary source of dental coverage for children in low-income families and provides access to dental care for approximately 35 million children. In recent years, a number of dentists and dental chains have been prosecuted for providing unnecessary dental procedures to Medicaid children, as well as for causing harm to children while performing these procedures.

HOW WE DID THIS STUDY

We based our analysis on New York Medicaid fee-for-service paid claims for general dentists and orthodontists who provided services to 50 or more children in 2012. Using several measures, we identified dental providers with questionable billing who are extreme outliers when compared to their peers.

WHAT WE FOUND

We identified 23 general dentists and 6 orthodontists in New York with questionable billing. These providers are extreme outliers when compared to their peers. Medicaid paid these providers $13.2 million for pediatric dental services in 2012.

Notably, these 29 general dentists and orthodontists—representing 3 percent of dental providers we reviewed—received extremely high payments per child; provided an extremely large number of services per child; or provided certain selected services, such as pulpotomies or extractions, to an extremely high proportion of children. Additionally, almost a third of the general dentists were associated with a single dental chain that had settled lawsuits for providing services that were medically unnecessary or that failed to meet professionally recognized standards of care to children.

Our findings raise concerns that certain providers may be billing for services that are not medically necessary or were never provided. They also raise concerns about the quality of care provided to Medicaid children. Although some of their billing may be legitimate, providers who bill for extremely large amounts of services warrant further scrutiny.

WHAT WE RECOMMEND

We recommend that the New York State Department of Health (1) continue to monitor general dentists and orthodontists to identify patterns of questionable billing, (2) ensure that the State employs adequate safeguards to monitor general dentists and orthodontists under managed care, and (3) ensure appropriate followup on the general dentists and orthodontists identified as having questionable billing. The New York State Department of Health neither agreed nor disagreed with our recommendations. However, it identified actions it has taken or plans to take that support our first recommendation. It also outlined current requirements and processes that are in place that support our second recommendation. It did not indicate whether any steps were planned to address our third recommendation.

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OBJECTIVE

To identify general dentists and orthodontists with questionable billing for Medicaid pediatric dental services in New York.

BACKGROUND

Medicaid is the primary source of dental coverage for children in low-income families and provides access to dental care for approximately 35 million children.[1,2] Medicaid's Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit requires States to cover all medically necessary dental services for children 18 years of age and under.[3] Medicaid dental services must include diagnostic and preventative services, as well as needed treatment and follow-up care. Diagnostic services may include x-rays of the mouth; preventative services may include cleanings, topical fluoride applications, and dental sealants. Dental treatment covers a wide range of services such as fillings; tooth extractions; and pulpotomies, which are often referred to as "baby root canals."

New York's Medicaid program also provides limited services for orthodontia. The State does not allow orthodontic treatment for purely cosmetic purposes; however, it will allow such treatment in instances of a "severe handicapping malocclusion."[4] This type of malocclusion occurs when a child's teeth are so far out of position that he or she cannot engage in normal activities—such as eating and talking—without difficulty.[5] It is commonly associated with other medical conditions such as Down syndrome, muscular dystrophy, or craniofacial anomalies such as a cleft lip or palate. A provider must receive prior approval from the State before providing orthodontic treatment to a child.

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[1] Thomas P. Wall, *Dental Medicaid – 2012*, American Dental Association (ADA), 2012.

[2] Centers for Medicare & Medicaid Services (CMS), *Annual EPSDT Participation Report, Form CMS-416 (National), Fiscal Year 2011*, December 20, 2012.

[3] Social Security Act (SSA) § 1905(r)(3); 42 CFR § 441.56. Dental services are covered up to age 18, but States may choose to extend eligibility through age 21. New York is among the States that have done so.

[4] New York State Medicaid Program, *Dental Policy and Procedure Manual*, May 15, 2011.

[5] Christine Ellis, University of Texas Southwestern Medical Center, Division of Oral and Maxillofacial Surgery, written Congressional testimony, *Is Government Adequately Protecting Taxpayers from Medicaid Fraud?*, April 25, 2012. Accessed at http://oversight.house.gov/wp-content/uploads/2012/04/4-25-12-Ellis-Testimony.pdf on October 30, 2013.

In recent years, a number of individual dentists and chains have been prosecuted for providing services that were medically unnecessary or that failed to meet professionally recognized standards of care. These providers have often been found to have suspect Medicaid billing patterns when compared to their peers. For example, a dental provider in New York billed Medicaid for 991 procedures on a single day; she was later convicted of grand larceny and her license was revoked.[6] In addition, FORBA Holdings LLC, a dental management company that manages clinics nationwide known as "Small Smiles Centers," settled with the United States in 2010 for $24 million to resolve allegations of providing services that were either medically unnecessary or performed in a manner that failed to meet professionally recognized standards of care to Medicaid children.[7] As part of the settlement, FORBA agreed to enter into a 5-year corporate integrity agreement with OIG.

In 2012, New York State transitioned Medicaid pediatric dental services from fee-for-service to managed care. Prior to this transition, New York offered Medicaid pediatric dental services both on a fee-for-service and managed care basis; however, after July 2012, most dental services were offered through managed care. Orthodontic services were offered through managed care after October 2012.

This report is part of a series. Other reports will examine Medicaid dentists in a number of other States. An additional report will determine the extent to which children enrolled in Medicaid received dental services in these States.

Related Work

In a recent audit, OIG found that providers inappropriately billed for orthodontic services provided to 43 of 100 sampled beneficiaries in New York City, totaling an estimated $7.8 million in inappropriate reimbursement.[8] Some of these services were provided without the required approval, whereas other services were undocumented or were never provided. These deficiencies occurred because the State agency and providers did not ensure that cases were reviewed annually to determine

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[6] Clifford J. Levy and Michael Luo, "New York Medicaid Fraud May Reach Into Billions," *The New York Times*, July 18, 2005. Accessed at http://www.nytimes.com/2005/07/18/nyregion/18medicaid.html on January 9, 2013. Also see New York State Education Department, Office of the Professions, *Summaries of Regents Actions on Professional Misconduct and Discipline*, November 2010. Accessed at http://www.op.nysed.gov/opd/nov10.htm on January 9, 2013.

[7] U.S. Department of Justice (DOJ), *National Dental Management Company Pays $24 Million to Resolve Fraud Allegations*, January 20, 2010. Accessed at http://www.justice.gov/opa/pr/2010/January/10-civ-052.html on July 13, 2012.

[8] OIG, *New York Improperly Claimed Medicaid Reimbursement for Orthodontic Services to Beneficiaries in New York City*, A-02-11-01003, October 2013.

the need for continuing care and did not ensure that services were adequately documented. OIG is also conducting a number of audits of individual dental providers to determine whether they inappropriately billed Medicaid for pediatric dental services.[9]

METHODOLOGY

We based our analysis on New York Medicaid fee-for-service paid claims with service dates between January 1, 2012, and December 31, 2012.[10] We excluded claims for services provided on a managed care basis or with special payment rates, such as those submitted by Federally Qualified Health Centers; State and local agencies; and facilities operated by university dental-school clinics.[11]

To compare dentists to their peers, we focused our analysis on general dentists and excluded dentists who indicated a specialty on their claims, such as pediatric dental specialists, oral surgeons, and dental anesthesiologists.[12] We excluded these specialists because their billing patterns are often different from those of general dentists. We looked at "rendering dentists"—the dentists who provided the services, as opposed to billing dentists—to ensure that we compared claims from the dentists who provided the services. Our analysis focused on 719 general dentists who provided services to 50 or more Medicaid children during 2012. These dentists served a total of 119,102 Medicaid children. We conducted a separate analysis of 165 orthodontists who provided services to 50 or more Medicaid children during this same time period.[13] These orthodontists served a total of 83,894 Medicaid children. We analyzed the orthodontists separately because their billing patterns differed from those of general dentists.

[9] OIG, *Dental Services for Children—Inappropriate Billing*, OAS-W-00-10-31135, OAS-W-00-11-31135, and OAS-W-00-12-3113, forthcoming.

[10] Over three-quarters of New York Medicaid pediatric dental fee-for-service claims were for services provided before July 1, 2012. Although New York began offering most dental services through managed care on that date, and began offering orthodontic services through managed care in October 2012, it paid for fee-for-service claims for services provided until the end of December 2012.

[11] We also excluded services provided in a hospital setting because dental services provided in hospitals differ greatly from those provided in an office setting. In total, we identified 3,194 dental providers who provided services to Medicaid children in 2012 on a fee-for-service basis.

[12] Two hundred and four dentists reported one of the following specialties on their claims: oral surgeon, pediatric dental specialist, endodontist, oral pathologist, periodontist, or anesthesiologist. We did not include these dentists in our analysis.

[13] A total of 238 orthodontists provided services to Medicaid children in 2012 on a fee-for-service basis. Of these, 165 orthodontists provided services to 50 or more Medicaid children.

We developed a number of measures to identify dentists with questionable billing who are extreme outliers when compared to their peers. We developed these measures based on input from officials from CMS, the New York State Office of the Medicaid Inspector General, the New York State Department of Health, The American Academy of Pediatric Dentistry, and The American Dental Association. We developed these measures to capture several different types of fraud and abuse. For these measures, we included only the Medicaid children served by these general dentists or orthodontists; we did not include other children whom they served.

For each general dentist, we calculated the following three measures for 2012:

- the average Medicaid payment per child served,
- the average number of services provided per child, and
- the average number of services provided per day.

We developed four additional measures for general dentists who provided selected services in 2012. For each dentist who provided the following service, we calculated the proportion of Medicaid children who received:

- fillings,
- extractions,
- stainless steel crowns, and
- pulpotomies.

For each measure, we analyzed the averages and the distribution for all general dentists.

Next, we set a threshold for each measure that, if exceeded, indicated that the dentist had billed an extremely large amount compared to other general dentists in the State. We modified a standard technique for identifying outliers, known as the Tukey method.[14] Under the Tukey method, outliers are those values greater than the 75th percentile plus 1.5 times the interquartile range.[15] To determine *extreme* outliers, we employed a more conservative approach, looking at those values greater than the 75th percentile plus *three* times the interquartile range. We considered dentists who exceeded one or more of these thresholds to have questionable billing.

[14] See J.W. Tukey, *Exploratory Data Analysis*. Addison-Wesley, 1977.

[15] The interquartile range is calculated by subtracting the value at the 25th percentile from the value at the 75th percentile.

We did a separate analysis of orthodontists. New York State has strict criteria for orthodontic services; in addition, orthodontists may bill for only a limited number of services. Providers receive a one-time payment for "comprehensive orthodontic treatment"—generally, this is the initial placement of braces on the teeth. They may also bill for periodic treatment services once per quarter—regardless of the number of visits provided—which covers the ongoing maintenance of the orthodontia. The remaining few orthodontic services may be billed for as they are provided. In addition to billing for orthodontic treatment services, orthodontists may also bill for related diagnostic services, such as x-rays.

For our analysis of orthodontists, we calculated two measures for each orthodontist: (1) the total number of children served and (2) the average number of services provided per child. As with our analysis for general dentists, for each of these measures, we set the thresholds for extreme outliers at the 75th percentile plus 3 times the interquartile range. Orthodontists who exceeded these thresholds were extreme outliers compared to their peers, and we considered them to have questionable billing.[16]

For each general dentist or orthodontist who exceeded one or more of the thresholds, we conducted Internet searches on the provider's background and analyzed his or her claims and payment history. In a number of cases, we excluded dentists or orthodontists who were affiliated with university dental-school clinics or who were actually specialists but had not indicated this on their claims. For the remaining providers, we researched public records available on LexisNexis and from the New York and New Jersey State licensing boards to determine whether the providers had malpractice lawsuits brought against them.

Limitations

We designed this study to identify general dentists and orthodontists who warrant further scrutiny. None of the measures we analyzed confirm that a particular provider is engaging in fraudulent or abusive practices. Some providers may be billing extremely large amounts for legitimate reasons.

Standards

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

[16] We did not determine whether orthodontists exceeded thresholds for the four selected services that we analyzed for general dentists. Orthodontists generally provide a limited set of services, bundled together into a broad "orthodontic treatment" claim, and do not usually provide the four selected services that we analyzed for general dentists.

FINDINGS

Twenty-nine general dentists and orthodontists in New York had questionable billing in 2012

We identified 23 general dentists and 6 orthodontists with questionable billing. We identified these providers by looking at general dentists and orthodontists in New York who provided services to more than 50 Medicaid children in 2012.

The providers with questionable billing patterns are extreme outliers when compared to their peers and make up 3 percent of the general dentists and orthodontists we reviewed.[17] In aggregate, they provided care to 14 percent of the Medicaid children served by the providers we reviewed. Medicaid paid these 29 providers $13.2 million for pediatric dental services in 2012.

Almost a third of the general dentists with questionable billing were associated with a single dental chain that had settled with the U.S. Government, as well as with New York State, for providing services that were medically unnecessary or that failed to meet professionally recognized standards of care to children.

These billing patterns indicate that certain dental providers may be billing for services that are not medically necessary or were never provided. Although some of this billing may be legitimate, providers who bill for extremely large amounts of services warrant further scrutiny.

Five General Dentists Received Extremely High Payments Per Child

General dentists who served 50 or more Medicaid children in New York received an average payment of $206 for each Medicaid child. Five dentists, however, averaged more than two times this amount, receiving an average of more than $482 per child. One dentist averaged $878 per child. For more than 20 children, this dentist was paid over $1,500 per child, or 7 times the average payment. Extremely high payments per child raise concerns about whether these dentists are billing for services that are unnecessary or that they did not provide.

[17] The 719 general dentists and 165 orthodontists whom we reviewed served a total of 194,225 Medicaid children. Some children were seen by both a general dentist and an orthodontist.

Two General Dentists Provided an Extremely Large Number of Services Per Child

General dentists in New York provided an average of five services per Medicaid child. Two dentists, however, averaged 12 or more services per child, with one dentist averaging 16 services per child.

Both of these dentists provided not only extremely large numbers of services per child, but also extremely large numbers of services *per visit*, raising concerns about the quality of care provided. For example, one dentist provided fillings on 42 separate tooth surfaces for the same child during the same visit.

Thirteen General Dentists Provided an Extremely Large Number of Services Per Day

General dentists in New York provided an average of 10 services per day to Medicaid children. Thirteen dentists, however, averaged more than 23 services per day, with 1 dentist averaging 54 services per day. One dentist provided 179 services in a single day. If this dentist spent only 5 minutes performing each service, it would have taken him over 15 hours to complete all of these services. An extraordinarily large number of services per day raises concerns that a dentist may be billing for services that were not necessary or were never provided. It also raises concerns about the quality of care being provided. See Table 1 for more information on general dentists with extremely high average payments or large numbers of services.

Table 1: General Dentists With Extremely High Average Payments or Large Numbers of Services

Measure	Average for General Dentists *	Threshold for Questionable Billing	Number of Dentists Who Exceeded Threshold
Average Payments Per Child	$206	$482	5
Average Number of Services Per Child	5	12	2
Average Number of Services Per Day	10	23	13

Source: OIG analysis of New York Medicaid claims data, 2013.
Note: Three dentists exceeded two thresholds.
* Includes general dentists who served 50 or more Medicaid children in 2012.

Six General Dentists Provided Selected Services to an Extremely High Proportion of Children

Four general dentists performed extractions on an extremely high proportion of Medicaid children. Over 38 percent of the children served by these dentists had one or more teeth extracted, compared to an average of 10 percent of children served by all general dentists providing extractions in the State. One dentist performed extractions on 76 percent of the children he served. These four dentists provided an average of three extractions per child.

Two general dentists provided pulpotomies—often referred to as "baby root canals"—to an extremely high proportion of Medicaid children. At least 14 percent of the children served by these dentists received pulpotomies, compared with only 4 percent of children served by all general dentists who provided pulpotomies. These dentists frequently provided three or more pulpotomies during a single visit, with one dentist performing as many as six pulpotomies during the same visit on a 2-year-old child.[18] See Table 2 for more information on general dentists who provided selected services to an extremely high proportion of children.

Table 2: General Dentists Who Provided Selected Services to an Extremely High Proportion of Children They Served

Measure	Average for General Dentists *	Threshold for Questionable Billing	Number of Dentists Who Exceeded Threshold
Proportion of children with extractions	10%	38%	4
Proportion of children with pulpotomies	4%	14%	2

Source: OIG analysis of New York Medicaid claims data, 2013.
* Includes general dentists who served 50 or more Medicaid children in 2012.

[18] Note that no dentists exceeded the thresholds for the proportions of Medicaid children receiving stainless steel crowns or fillings. General dentists provided stainless steel crowns to an average of 7 percent of children served; however, none of the dentists exceeded the threshold of 23 percent. Similarly, general dentists provided fillings to an average of 29 percent of children served; however, none of the dentists exceeded the threshold of 85 percent.

Almost a Third of the General Dentists With Questionable Billing Were Associated With a Single Dental Chain

Seven of the twenty-three general dentists with questionable billing were associated with the same dental chain.[19] The chain's two clinics in New York stopped billing Medicaid in April 2012, after their management company decided to close the clinics and stop practicing in the State.

The closures took place after the chain settled with the U.S. Government, as well as with New York State, to resolve allegations of providing services that were either medically unnecessary or were performed in a manner that failed to meet professionally recognized standards of care to children.

For one additional dentist not associated with that chain, a State Board of Dentistry initiated disciplinary action against the dentist for negligence, malpractice, or incompetence. The Board had investigated the dentist after receiving several complaints. Two other dentists not associated with the chain had malpractice lawsuits brought against them.

Five Orthodontists Provided Services to an Extremely High Number of Children; One Orthodontist Provided an Extremely Large Number of Services Per Child

Orthodontists in New York provided services to an average of 531 Medicaid children in 2012. Five orthodontists, however, each provided services to more than 2,100 children, and one of these orthodontists provided services to 4,870 children.

All five of these orthodontists most often provided periodic treatment visits, which are billed for on a quarterly basis, regardless of how many visits occurred during the quarter. Periodic treatment accounted for almost half of the services these orthodontists provided in 2012. These 5 orthodontists had a minimum of 43,564 visits with 17,365 children over the course of the year. The orthodontist who provided services to 4,870 children had at least 12,598 visits with these children in 2012.

The high volume of children seen by each of these five orthodontists raises concern about whether they are able to ensure that each child receives treatment that meets professionally recognized quality-of-care standards. Moreover, it is possible that the orthodontists billed for services that they did not even provide. As noted earlier, a recent OIG audit found inappropriate billing by providers in New York State for orthodontic

[19] Six of these dentists worked for this dental chain in 2012, whereas one dentist had previously worked for the dental chain but was working at another dental clinic in 2012.

services provided to a significant proportion of sampled beneficiaries.[20] Some of these services were provided without the required approval, while other services were undocumented or were never provided.

Additionally, one orthodontist provided a large number of services per child. This orthodontist averaged seven services per child, compared with an average of four services per child for all orthodontists. See Table 3 for more information on orthodontists who provided services to an extremely high number of children or provided an extremely high average number of services per child.

Table 3: Orthodontists Who Provided Services to an Extremely High Number of Children or Provided an Extremely Large Number of Services Per Child

Measure	Average for Orthodontists *	Threshold for Questionable Billing	Number of Orthodontists Who Exceeded Threshold
Total Number of Children Served	531	2,181	5
Average Number of Services Per Child	4	7	1

Source: OIG analysis of New York Medicaid claims data, 2013.
* Includes orthodontists who served 50 or more Medicaid children in 2012.

[20] OIG, *New York Improperly Claimed Medicaid Reimbursement for Orthodontic Services to Beneficiaries in New York City*, A-02-11-01003, October 2013.

CONCLUSION AND RECOMMENDATIONS

Dentists who participate in Medicaid provide much-needed access to dental services for children in this program. When children lack such access, untreated decay and infection in their mouths may result in more complicated and expensive dental and medical interventions later in life. At the same time, we have concerns about the extreme billing patterns of a number of general dentists and orthodontists in New York. Specifically, 29 general dentists and orthodontists—representing 3 percent of dental providers we reviewed—received extremely high payments per child; provided an extremely large number of services per child; or provided certain selected services, such as pulpotomies or extractions, to an extremely high proportion of Medicaid children. Although some of their billing may be legitimate, providers who bill for extremely large amounts of services warrant further scrutiny.

Our findings raise concerns that certain providers may be billing for services that are not medically necessary or were never provided. They also raise concerns about the quality of care provided to these children. Prior OIG reports have also found evidence of vulnerabilities in the oversight of Medicaid dental providers. Additionally, OIG has identified some specific vulnerabilities regarding the practices of certain dental chains. Notably, almost a third of the general dentists with questionable billing were associated with a single dental chain that had settled lawsuits for providing services that were medically unnecessary or that failed to meet professionally recognized standards of care to children.

Together, these findings demonstrate the need to improve the oversight of Medicaid pediatric dental services. OIG is committed to conducting additional studies of dental providers and may issue recommendations to CMS in a future report. We are also committed to examining access to Medicaid dental services and to continuing to conduct investigations and audits of specific dental providers with questionable billing.

The State must also use the tools at its disposal to effectively identify and fight fraud, waste, and abuse, while at the same time ensuring that children have adequate access to quality dental care in the Medicaid program.

Therefore, we recommend that the New York State Department of Health:

Continue to monitor general dentists and orthodontists to identify patterns of questionable billing

The State currently provides oversight of billing practices in numerous ways. Among other things, the State has claims-processing "edits" (system processes to ensure proper payment of claims), conducts "prior approval" reviews for certain services, investigates complaints, and

performs data analysis that may result in investigations. The State should continue to rely on its ongoing monitoring in this area and consider this report's findings when developing further enhancements to its systems for monitoring billing by dental providers. Monitoring pediatric dental services can result in cost savings, as well as ensuring that children receive quality dental care.

Ensure that the State employs adequate safeguards to monitor general dentists and orthodontists under managed care

As part of its transition to a managed care environment, the State must ensure that managed care entities employ adequate safeguards to monitor dental providers. Managed care claims by dentists and orthodontists should be subject to claims-processing edits and "prior approval" reviews, just as fee-for-service claims were prior to the transition. Additionally, the State should collect detailed data from its managed care entities to conduct proactive data analysis. These data should include the specialty of the dentist and all of the services provided by each dentist.

Ensure appropriate followup on the general dentists and orthodontists identified as having questionable billing

In a separate memorandum, we will refer for appropriate action the dental providers whom we identified as having questionable billing.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

The New York State Department of Health (the Department) neither agreed nor disagreed with our recommendations. However, the Department identified actions it has taken or plans to take that support our first recommendation. It stated that the New York State Office of the Medicaid Inspector General (OMIG) is actively investigating and monitoring numerous orthodontists and general dentists. It noted that OMIG is also developing a system to identify questionable billing for orthodontic treatments and that OMIG's dental staff will continue its oversight of billing practices by conducting prepayment reviews and record reviews to actively identify overpayments, unacceptable practices, and criminal activity. We continue to emphasize the importance of using the methods outlined in this report as a basis for further enhancements to the Department's ongoing monitoring activities.

The Department also outlined current requirements and processes that are in place that support our second recommendation. It noted that managed care plans are required to develop special investigation units that detect possible fraud and abuse. In addition, the Department stated that it closely monitors managed care dental managers and—through ongoing review of "fair hearing" results for dental services—evaluates whether they are following proper procedures. It also stated that it routinely reviews dental vendors who manage the dental benefit to ensure that they are following standard practices as prescribed by law. Lastly, it noted that the dental vendors evaluate the provision of services and authorize them only when they are medically necessary.

The Department did not indicate whether any steps were planned to address our third recommendation. It stated that OMIG will continue to monitor encounter data from managed care organizations as well as fee-for-service claims data in order to identify questionable billing by dental providers.

The full text of the Department's comments is provided in the Appendix.

APPENDIX

Agency Comments

NYS Department of Health
Comments on the
US Department of Health and Human Services
Office of Inspector General
Draft Report OEI-02-12-00330 Entitled
Questionable Billing for Medicaid
Pediatric Dental Services in New York

The following are the NYS Department of Health's (Department) comments in response to the US Department of Health and Human Services, Office of Inspector General's (OIG) Draft Report OEI-02-12-00330 entitled, "Questionable Billing for Medicaid Pediatric Dental Services in New York."

Recommendation #1:

Continue to monitor general dentists and orthodontists to identify patterns of questionable billing.

Response #1:

The Department will continue to provide oversight to the fee-for-service (FFS) billing practices of providers. This is accomplished through edits that monitor and promote proper billing, the requiring of a professional prior approval review for numerous procedure codes (which includes a review of the claims payment history of the recipient), keeping numerous procedure codes on a "By-Report" resulting in the need for submission of supporting documentation for claim payment consideration and by reviewing patient's records when investigating recipient complaints. The Department's monitoring and review must be balanced with the Centers for Medicare and Medicaid Services' direction to improve and expand access to preventative dental services to children.

The Office of the Medicaid Inspector General (OMIG) is actively investigating and monitoring numerous orthodontists and general dentists. Currently, the OMIG is also developing a systems match claim review wherein the identification of questionable orthodontic treatments will be addressed, and any identified overpayments will be recovered where appropriate. OMIG's dental staff will continue to conduct prepayment reviews and investigative record reviews to actively identify overpayments, unacceptable practices, and criminal activity.

Recommendation #2:

Ensure that the State employs adequate safeguards to monitor general dentists and orthodontists under managed care.

Response #2

Dental and orthodontic services covered by Managed Care Organizations (MCOs) are described in Appendix K (Benefit Package), K.2, 25 of the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan (MMC/FHP/HIV SNP) model contract. The full description and

scope of each covered service, as established by the New York Medical Assistance Program, are set forth in the applicable New York State Medicaid Provider Manual. All services provided under the Benefit Package to MMC enrollees must comply with all the standards of the State Medicaid Plan established pursuant to Section 363-a of the Social Services Law (SSL) and shall satisfy all other applicable requirements of the (SSL) and Public Health Law (PHL).

Section 21.17 of the MMC/FHP/HIV SNP model contract currently requires that a MCO's dental network must include geographically accessible general dentists sufficient to offer each enrollee a choice of two (2) primary care dentists in their service area and to achieve a ratio of at least two (2) primary care dentists for each 2,000 MMC and/or FHP enrollees and each 500 HIV SNP enrollees. Networks must also include at least two (2) pediatric dentists and two (2) oral surgeons. Orthognathic surgery, temporal mandibular disorders (TBD) and oral/maxillofacial prosthodontics must be provided through any qualified dentist, either in-network or by referral. Periodontists and endodontists must also be available by referral. The network should also include dentists with expertise in serving special needs populations.

Section 22.3 of the model contract requires that all medical care and/or services covered under the contract, with the exception of seldom used subspecialty and Emergency Services, Family Planning Services, and services for which Enrollees can self-refer, shall be provided through Provider Agreements with Participating Providers. In Section 22.5, the model contract further requires that all subcontracts, including Provider Agreements, contain provisions specifying that the rules and regulations of the Medicaid program related to the furnishing of medical care, services or supplies provided directly by, or under the supervision of, or ordered or prescribed by Participating Providers enrolled in a MCO apply to the subcontractors, regardless of whether the subcontractor is an enrolled Medicaid provider, including 18NYCRR 515.2, except to the extent that such regulations conflict with the requirements of the MMC Program and the model contract, provided that any reference in the regulations establishing rates, fees, and claiming instructions will refer to the rates, fees and claiming instructions set by the MCO. Section 22.5 also requires that the MCO monitor the subcontractor's performance on an ongoing basis and subject it to formal review according to time frames established by the State, consistent with State laws and regulations, and the terms of the model contract. When deficiencies or areas for improvement are identified, the contractor and subcontractor must take corrective action.

In addition, Title 10, Part 98 regulations specifically require plans to develop a special investigation unit that has the responsibility to detect possible fraud and abuse including but not limited to provision of preventive services, underutilization, provision of medically necessary services and the submission of claims for services not provided. Also, ongoing review of fair hearing results for dental services enables the Department to closely monitor MCO dental managers and to evaluate whether or not they are following proper procedures. The Department routinely reviews dental vendors to ensure that they are following standard practices as prescribed by law. Lastly, many plans capitate Dental Intermediaries such as Healthplex and others to manage the dental benefit. These vendors evaluate the provision of these services and only authorize when they are medically necessary.

The OMIG will continue to monitor encounter data from MCOs as well as FFS claims data in order to identify questionable billing by dental providers.

Recommendation #3:

Ensure appropriate follow up on the general dentists and orthodontists identified as having questionable billing.

Response #3:

Through oversight of provider practices, the Department is able to recognize improper billing patterns. If detected, these potential fraud and abuse cases are referred to the OMIG for investigation.

The OMIG will continue to monitor encounter data from MCOs as well as FFS claims data in order to identify questionable billing by dental providers.

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Judy Kellis served as the team leader for this study. Other Office of Evaluation and Inspections staff from the New York regional office who conducted the study include Lucia Fort. Central office staff who provided support include Clarence Arnold, Meghan Kearns, and Christine Moritz.

Office of Inspector General

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The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.