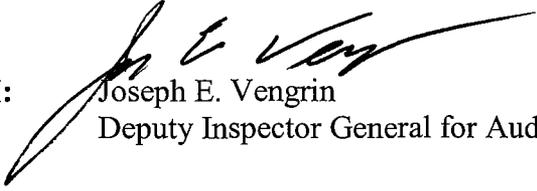




JUL 25 2007

**TO:** Herb Kuhn  
Acting Deputy Administrator  
Centers for Medicare & Medicaid Services

**FROM:**   
Joseph E. Vengrin  
Deputy Inspector General for Audit Services

**SUBJECT:** Review of Pharmacy Claims Billed as Family Planning Under the New York State Medicaid Program (A-02-05-01018)

Attached is an advance copy of our final report on Medicaid pharmacy claims billed as family planning services by New York State. We will issue this report to the State within 5 business days. This audit is the third of a series on Medicaid family planning claims made by the State.

Our objective was to determine whether the prescription drug claims for which New York State received Federal reimbursement at the enhanced 90-percent rate of Federal financial participation (FFP) qualified as family planning services.

New York State improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 592,165 prescription drug claims that did not qualify as family planning services. As a result, the State improperly received \$6,132,366 in Federal Medicaid funds. This amount represents the difference between the enhanced 90-percent rate and the applicable 50-percent or 52.95-percent Federal medical assistance percentage.

The overpayment occurred because the State incorrectly designated 246 National Drug Codes (NDC) as related to family planning in its Medicaid Management Information System (MMIS). As a result, the State improperly claimed these codes for 90-percent Federal funding.

We recommend that the State:

- refund \$6,132,366 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;
- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and

- determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

In its April 3, 2007, comments on our draft report, New York State generally concurred with our recommendations. Regarding our recommendation to refund \$6,132,366 to the Federal Government, the State agreed that a refund was due but wanted to verify the amount of the actual refund.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or James P. Edert, Regional Inspector General for Audit Services, Region II, at (212) 264-4620. Please refer to report number A-02-05-01018.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

JUL 26 2007

Office of Audit Services

Region II

Jacob K. Javits Federal Building

New York, New York 10278

(212) 264-4620

Report Number: A-02-05-01018

Richard F. Daines, M.D.  
Commissioner  
New York State Department of Health  
Empire State Plaza, Corning Tower  
Albany, New York 12237

Dear Dr. Daines:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Pharmacy Claims Billed as Family Planning Under the New York State Medicaid Program." A copy of this report will be forwarded to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports are generally made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after the final report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me. Please refer to report number A-02-05-01018 in all correspondence.

Sincerely,

James P. Edert  
Regional Inspector General  
for Audit Services

Enclosures

**Direct Reply to HHS Action Official:**

Ms. Sue Kelly  
Associate Regional Administrator  
Division of Medicaid and Children's Health  
Centers for Medicare & Medicaid Services, Region II  
Department of Health and Human Services  
26 Federal Plaza, Room 3811  
New York, New York 10278

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF PHARMACY CLAIMS  
BILLED AS FAMILY PLANNING  
UNDER THE NEW YORK STATE  
MEDICAID PROGRAM**



**Daniel R. Levinson  
Inspector General**

**July 2007  
A-02-05-01018**

# *Office of Inspector General*

<http://oig.hhs.gov>

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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:

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The Office of Audit Services (OAS) provides all 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.

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# *Notices*

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**THIS REPORT IS AVAILABLE TO THE PUBLIC**  
at <http://oig.hhs.gov>

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

The Federal Government and the States share the costs of the Medicaid program. The Federal share of the Medicaid program is referred to as Federal financial participation (FFP). The Federal share of a State's Medicaid program is determined by the Federal medical assistance percentage (FMAP). During our audit period (January 1, 2000, through December 31, 2003), the FMAP in New York State was 50 or 52.95 percent.

Section 1903(a)(5) of the Social Security Act and 42 CFR §§ 433.10 and 433.15 provide enhanced 90-percent FFP for family planning services. According to section 4270 of the Centers for Medicare & Medicaid Services "State Medicaid Manual," family planning services prevent or delay pregnancy or otherwise control family size. In addition, this section generally permits 90-percent FFP for pharmaceutical supplies and devices to prevent conception. Only items and procedures clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate of FFP.

### **OBJECTIVE**

Our objective was to determine whether the prescription drug claims for which New York State received Federal reimbursement at the enhanced 90-percent rate of FFP qualified as family planning services.

### **SUMMARY OF FINDINGS**

New York State improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 592,165 prescription drug claims that did not qualify as family planning services. As a result, the State improperly received \$6,132,366 in Federal Medicaid funds. This amount represents the difference between the enhanced 90-percent rate and the applicable 50-percent or 52.95-percent FMAP.

The overpayment occurred because the State incorrectly designated 246 National Drug Codes (NDC) as related to family planning in its Medicaid Management Information System (MMIS). As a result, the State improperly claimed these codes for 90-percent Federal funding.

### **RECOMMENDATIONS**

We recommend that the State:

- refund \$6,132,366 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;

- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and
- determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

## **STATE'S COMMENTS**

In its April 3, 2007, comments on our draft report, New York State generally agreed with our recommendations. Regarding our recommendation to refund \$6,132,366 to the Federal Government, the State agreed that a refund was due but wanted to verify the amount of the actual refund. The State's comments are included in their entirety as Appendix B.

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## **INTRODUCTION**

### **BACKGROUND**

#### **Medicaid Program**

Title XIX of the Social Security Act (the Act) established the Medicaid program, which pays the health care costs of persons who qualify by virtue of medical conditions, economic conditions, or other factors. The Federal Government and the States share Medicaid costs. The Federal share of the Medicaid program is referred to as Federal financial participation (FFP). The Federal share of a State's Medicaid program is determined by the Federal medical assistance percentage (FMAP). Within the Federal Government, the Centers for Medicare & Medicaid Services (CMS) administers Medicaid.

To participate in Medicaid, a State must submit and receive CMS's approval of a State plan. The State plan is a comprehensive document detailing the nature and scope of the State's Medicaid program and the State's obligations to the Federal Government. Medicaid pays for medically necessary services that are specified in Medicaid law provided that they are included in the State plan and rendered to individuals eligible under the State plan.

#### **Medicaid Coverage of Family Planning Services**

Section 1905(a)(4)(C) of the Act requires States to furnish family planning services and supplies to individuals of childbearing age who are eligible under the State plan and who desire such services and supplies. Section 1902(a)(10)(A) of the Act specifies that family planning services be available to "categorically needy" Medicaid beneficiaries, while section 1902(a)(10)(C) specifies that the services may be rendered to "medically needy" Medicaid beneficiaries at the State's option. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10(c)(1) and 433.15(b)(2) authorize 90-percent Federal funding for family planning services.

According to section 4270 of the CMS "State Medicaid Manual," family planning services prevent or delay pregnancy or otherwise control family size. In addition, this section generally permits an enhanced 90-percent rate of FFP for counseling services and patient education; examination and treatment by medical professionals pursuant to State requirements; laboratory examinations and tests; medically approved methods, procedures, pharmaceutical supplies, and devices to prevent conception; and infertility services, including sterilization reversals. The manual indicates that States are free to determine the specific services and supplies that will be covered as Medicaid family planning services as long as those services are sufficient in amount, duration, and scope to reasonably achieve their purpose. However, only items and procedures clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate of FFP.

The CMS "Financial Management Review Guide Number 20," which CMS disseminated to New York State via Medicaid State Operations Letter 91-9, allows the State to use a variety of coding systems and codes for the pharmaceuticals that it reimburses under Medicaid. Most of the

medications covered as family planning services and reimbursable at the 90-percent Federal funding rate are used for birth control or the stimulation of ovulation in infertile women. Other medications covered at the 90-percent rate are used incident to, or as part of, procedures performed for family planning purposes, such as pain medications following a sterilization procedure. However, the guide does not specifically list what pharmaceutical codes may be reimbursed at the enhanced 90-percent FFP rate.

New York's Medicaid State plan states that family planning services and supplies for individuals of childbearing age are covered without limitations. State regulations (New York Compilation of Codes, Rules and Regulations, Title 18, section 505.13) define family planning services as the offering, arranging, and furnishing of those health services that enable individuals, including minors who may be sexually active, to prevent or reduce the incidence of unwanted pregnancies. The regulations state that such services include professional medical counseling services; prescription drugs; nonprescription drugs and medical supplies prescribed by a qualified physician, nurse practitioner, or physician's assistant; and sterilizations. However, the State plan and State regulations do not identify which prescription or nonprescription drugs relate to family planning.

### **New York's Medicaid Program**

In New York State, the Department of Health operates the Medicaid program. Within the Department of Health, the Office of Medicaid Management administers the program. The Department of Health uses the Medicaid Management Information System (MMIS), a computerized payment and information reporting system, to process and pay Medicaid claims.

The State's FMAP was 50 percent for claims paid from January 1, 2000, through March 31, 2003, and 52.95 percent from April 1 through December 31, 2003.

Pharmacy providers enrolled in Medicaid submit claims to the MMIS for payment and are reimbursed according to a fee schedule. The State furnishes instructional manuals to providers for proper completion and submission of these claims. Within the claim form are certain fields that the providers are required to complete, including the National Drug Code (NDC) of the drug prescribed. There is no field on the claim form for the pharmacists to indicate whether the drug is related to family planning.

State pharmacists with the Department of Health review each NDC to determine whether the drug is used for family planning purposes. If the State pharmacists determine that a drug is related to family planning, the family planning indicator field in the MMIS is preset to "Yes" for that NDC. The State claims the enhanced 90-percent rate of FFP for any NDC coded as family planning. During our audit period, 566 NDCs were coded as family planning in the MMIS.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine whether the prescription drug claims for which New York State received Federal reimbursement at the enhanced 90-percent rate of FFP qualified as family planning services.

### **Scope**

Our audit period covered January 1, 2000, through December 31, 2003. We did not review the overall internal control structure of the State or the Medicaid program; we reviewed only the internal controls that pertained directly to our objective. We did not review the claims in our sample for compliance with other Medicaid requirements for reimbursement; we reviewed only the qualifications of the prescription drugs to determine whether they related to family planning.

We conducted fieldwork at the State Department of Health in Albany, New York; the State MMIS fiscal agent in Menands and Rensselaer, New York; and 26 prescribing providers' offices.

### **Methodology**

To accomplish our objective, we:

- reviewed Federal and State laws, regulations, guidance, and the State plan;
- held discussions with CMS officials and acquired an understanding of CMS's guidance to State officials on Medicaid family planning claims;
- held discussions with State officials to ascertain State policies, procedures, and guidance for claiming Medicaid reimbursement for family planning services;
- conducted survey work at six pharmacies to understand their coding and Medicaid billing procedures;
- conducted survey work at 12 prescribing physicians' offices to understand why certain drugs were prescribed; and
- ran computer programming applications at the MMIS fiscal agent, which identified 2,476,875 paid pharmacy claims, representing 477 NDCs, for prescription drugs billed at 90 percent by the State and totaling \$87,372,838 (\$78,632,538 Federal share) for the period January 1, 2000, through December 31, 2003.

To identify a universe of those prescription drugs not used for family planning purposes, we:

- shared the list of 477 NDCs with a pharmacist licensed in New York State who identified those drugs used and not used for family planning purposes based on his professional knowledge of prescription drug usage;
- determined, as per the pharmacist, that 245 of the 477 NDCs were not related to family planning, 229 NDCs were related to family planning, and 3 NDCs were not designated as either;
- forwarded the list of 245 NDCs, plus the 3 NDCs not designated by the pharmacist, to a CMS headquarters physician, who concurred with the pharmacist's determinations and determined that 1 of the 3 undesignated NDCs was not related to family planning, for a total of 246 NDCs that we believed were not related to family planning;
- determined that 231 NDCs (477 minus 246) representing 1,883,452 prescription drug claims were related to family planning and therefore allowable at 90-percent FFP and not included in our audit;
- used the list of 246 NDCs to extract from the universe of 2,476,875 claims for prescription drugs 593,423 claims that were improperly billed as family planning during our review period;
- eliminated from the 593,423 claims 1,249 claims for beneficiaries in client aid category 56<sup>1</sup> and 9 claims with Federal paid amounts that were not equal to 90 percent; and
- identified a revised universe of 592,165 claims for the 246 NDCs totaling \$15,500,430 (\$13,950,611 Federal share) that were ineligible for 90-percent Federal funding.

To further validate our belief that the 592,165 claims were not related to family planning and ineligible for 90-percent Federal funding, we:

- used simple random sampling to select a discovery sample of 30 claims from the universe of 592,165 claims;
- obtained and reviewed prescriptions for the 30 sampled claims from the pharmacies that filled them to identify the prescribing physicians;
- obtained and reviewed the medical records from the prescribing physicians for the 30 sampled claims to determine why the drugs were prescribed and whether the drugs were related to family planning and eligible for 90-percent Federal funding; and

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<sup>1</sup>Beneficiaries in client aid category 56 are included in a family planning waiver program that we intend to review in a separate audit.

- determined that the 30 prescription drugs were not related to family planning, as described in Appendix A.

To determine the State's actions, we:

- shared the list of 246 non-family-planning NDCs with State officials and
- obtained and reviewed an e-mail from State officials indicating that as of March 30, 2006, the 246 non-family-planning NDCs identified by our audit had the family planning indicator removed within the State's MMIS and that none of these drugs are now being reimbursed at the enhanced Federal rate of 90 percent.

Based on the pharmacist's and the CMS headquarters physician's determinations, along with our discovery sample of 30 claims and the State's actions, we concluded that the 592,165 prescription drug claims did not qualify for the enhanced 90-percent rate of FFP. To calculate the unallowable amount of FFP, we computed the difference between the enhanced 90-percent rate and the FMAP for each claim.

We conducted our review in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

New York State improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 592,165 prescription drug claims that did not qualify as family planning services. As a result, the State improperly received \$6,132,366 in Federal Medicaid funds. This amount represents the difference between the enhanced 90-percent rate and the applicable 50-percent or 52.95-percent FMAP.

The overpayment occurred because the State incorrectly coded the 246 NDCs in question as related to family planning in its MMIS, making them eligible for 90-percent Federal funding.

### **SERVICES UNRELATED TO FAMILY PLANNING**

Section 4270 of the CMS "State Medicaid Manual" specifies that Federal funding at the 90-percent matching rate is available for the costs of medically approved pharmaceutical supplies to prevent conception. The manual indicates that States are free to determine the specific services and supplies that will be covered as Medicaid family planning services as long as those services are sufficient in amount, duration, and scope to reasonably achieve their purpose.

However, only items and procedures (including prescription drugs) clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate of FFP.

According to the "CMS Financial Management Review Guide Number 20," the majority of medications covered as family planning services and reimbursable at the 90-percent Federal funding rate are used for birth control or the stimulation of ovulation in infertile women. Other medications covered at the 90-percent rate are used incident to, or as part of, procedures

performed for family planning purposes, such as pain medications following a sterilization procedure.

New York's Medicaid State plan states that family planning services and supplies for individuals of childbearing age are covered without limitations. State regulations (New York Compilation of Codes, Rules and Regulations, Title 18, section 505.13) define family planning services as the offering, arranging, and furnishing of those health services that enable individuals, including minors who may be sexually active, to prevent or reduce the incidence of unwanted pregnancies. The regulations state that such services include professional medical counseling services; prescription drugs; nonprescription drugs and medical supplies prescribed by a qualified physician, nurse practitioner, or physician's assistant; and sterilizations.

All 30 claims in our sample were unrelated to family planning services. As described in the "Methodology" section, we identified a universe of 592,165 prescription drug claims that did not qualify for 90-percent Federal funding. We first used the list of 246 non-family-planning NDCs to extract 593,423 claims from the population of 2,476,875 claims for prescription drugs. We eliminated claims for beneficiaries in client aid category 56 and claims that were not reimbursed at the 90-percent rate to reach our revised universe of 592,165 prescription drug claims. To further validate that these claims were unrelated to family planning, we selected a random sample (discovery sample) of 30 claims. We questioned the following claims:

- Twenty-six claims involved prescriptions for hormone replacement therapy for conditions such as menopause, hysterectomy, or sex change.
- Two claims involved prescriptions to control bleeding following an abortion.
- Two claims involved prescriptions to control the menstrual cycle.

Because these claims were not related to family planning, they were not eligible for the enhanced 90-percent rate. Appendix A contains a summary of the 30 prescription drug claims unrelated to family planning.

### **FAMILY PLANNING INDICATOR IMPROPERLY CODED**

State pharmacists review each NDC to determine whether it is related to family planning. If the pharmacists determine that an NDC is related to family planning, the family planning indicator field in the MMIS is preset to "Yes," and the State claims 90-percent Federal funding for that NDC. During our audit period, 566 NDCs were coded as family planning in the MMIS. State officials indicated that they had no written policies regarding periodic review of NDCs.

As a result of designating the NDCs improperly, the State set the family planning indicator field in its MMIS to "Yes" for 240 of the 246 NDCs in question, causing them to be billed at 90-percent FFP. Although the field for the remaining six NDCs was set to "No" at the time of our fieldwork, we believe that the State set the field to "Yes" for some portion of our review period because the claims were reimbursed at 90 percent. When pharmacies submitted claims

for any of the 246 NDCs, they were automatically claimed for 90-percent Federal reimbursement. However, the 246 NDCs were not related to family planning and therefore were not eligible for 90-percent Federal reimbursement.

In an August 14, 2006, e-mail, State officials indicated that as of March 30, 2006, the 246 non-family-planning prescription drugs identified by our audit had the family planning indicator removed within their MMIS and that none of these drugs are now being reimbursed at the enhanced Federal rate of 90 percent.

### **CALCULATION OF THE UNALLOWABLE AMOUNT**

Based on the review of the 30 sampled claims, together with our determination that Federal laws, regulations, and guidance prohibit the State from claiming Medicaid reimbursement at the enhanced 90-percent Federal funding rate for non-family-planning services, we conclude that the State improperly claimed \$6,132,366.

We did not question the medical necessity of the services or their eligibility for Medicaid reimbursement. We calculated the difference for all 592,165 claims in our universe at the FMAP of 50 percent (for claims with payment dates from January 1, 2000, through March 31, 2003) or 52.95 percent (for claims with payment dates from April 1, 2003, through December 31, 2003). Therefore, our audit questioned only the difference between the applicable FMAP and the enhanced Federal funding rate, or 40 percent (90 minus 50) or 37.05 percent (90 minus 52.95), of the Medicaid paid amounts for the 592,165 claims. Accordingly, the State was improperly reimbursed \$6,132,366 for the audit period. (See the table below.)

**Calculation of Unallowable Federal Reimbursement**

<b>Period</b>	<b>Total Medicaid Payments</b>	<b>Difference in Rates</b>	<b>Federal Share Questioned</b>
1/1/2000–3/31/2003	\$13,201,924	40.00%	\$5,280,770
4/1/2003–12/31/2003	2,298,506	37.05%	851,596
<b>Total</b>	<b>\$15,500,430</b>		<b>\$6,132,366</b>

### **RECOMMENDATIONS**

We recommend that the State:

- refund \$6,132,366 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;
- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and

- determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

## **STATE'S COMMENTS**

In its April 3, 2007, comments on our draft report, New York State generally agreed with our recommendations. Regarding our recommendation to refund \$6,132,366 to the Federal Government, the State agreed that a refund was due but wanted to verify the amount of the actual refund. The State's comments are included in their entirety as Appendix B.

# **APPENDIXES**

**SUMMARY OF THE 30 SAMPLE PRESCRIPTION DRUG  
CLAIMS UNRELATED TO FAMILY PLANNING**

<b>Sample Number</b>	<b>NDC<sup>1</sup></b>	<b>Description</b>
1	00555077902	A 36-year-old beneficiary was prescribed medroxyprogesterone for hormone replacement therapy to induce her menstrual cycle, which had ceased in 1990 because of the psychiatric medication she was taking.
2	00046086781	A 50-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she was menopausal following a trans-abdominal hysterectomy in 2000.
3	00046086681	A 34-year-old beneficiary was prescribed premarin for hormone replacement therapy after a sex-change operation.
4	61570007201	A 49-year-old beneficiary was prescribed menest for hormone replacement therapy, as she was menopausal following a trans-abdominal hysterectomy in 1987.
5	00046086781	A 47-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she had had a hysterectomy following surgery for cancer in 1999.
6	00046086781	A 53-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she had had a hysterectomy in 1984.
7	00046087505	A 44-year-old beneficiary was prescribed prempo for hormone replacement therapy after the onset of menopause.
8	00046086781	A 37-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she had had a hysterectomy in 1997.
9	00046086881	A 54-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she had had a hysterectomy in 1998.
10	00046087506	A 47-year-old beneficiary was prescribed prempo for hormone replacement therapy after the onset of menopause.
11	00078005405	A 34-year-old beneficiary was prescribed methergine to control bleeding following her abortion.

<b>Sample Number</b>	<b>NDC</b>	<b>Description</b>
12	00046086781	A 47-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she had had a hysterectomy in 1984.
13	00046086581	A 36-year-old beneficiary was prescribed permarin for hormone replacement therapy after a sex-change operation.
14	00555087202	A 48-year-old beneficiary was prescribed medroxyprogesterone for hormone replacement therapy after the onset of menopause.
15	00665400107	A 20-year-old beneficiary was prescribed medroxyprogesterone to induce a menstrual cycle. However, the beneficiary was found to be pregnant during the same visit.
16	00046086781	A 50-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she had had a hysterectomy in 1991.
17	00046087506	A 53-year-old beneficiary was prescribed prempro for hormone replacement therapy after the onset of menopause.
18	00046087506	A 47-year-old beneficiary was prescribed prempro for hormone replacement therapy.
19	00078005405	A 38-year-old beneficiary was prescribed methergine to control bleeding following her abortion.
20	00046087502	A 50-year-old beneficiary was prescribed prempro for hormone replacement therapy after the onset of menopause.
21	00046087506	A 42-year-old beneficiary was prescribed prempro for hormone replacement therapy after the onset of menopause.
22	00046087506	A 51-year-old beneficiary was prescribed prempro for hormone replacement therapy after the onset of menopause.
23	00046257306	A 50-year-old beneficiary was prescribed prempase for hormone replacement therapy after the onset of menopause.
24	00046087506	A 48-year-old beneficiary was prescribed prempro for hormone replacement therapy after the onset of menopause.
25	00046087506	A 53-year-old beneficiary was prescribed prempro for hormone replacement therapy after the onset of menopause.

<b>Sample Number</b>	<b>NDC</b>	<b>Description</b>
26	00046087506	A 50-year-old beneficiary was prescribed prempo for hormone replacement therapy after the onset of menopause.
27	00555087204	A 43-year-old beneficiary was prescribed medroxyprogesterone for hormone replacement therapy after the onset of menopause.
28	00555077902	A 38-year-old beneficiary was prescribed medroxyprogesterone to decrease her menstrual flow. The beneficiary had had a tubal ligation (sterilization).
29	00046086691	A 54-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.
30	00378145801	A 49-year-old beneficiary was prescribed estradiol for hormone replacement therapy, as she had had a hysterectomy in 1999.

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<sup>1</sup>NDC = National Drug Code.



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

APPENDIX B  
Page 1 of 4

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

April 3, 2007

James P. Edert  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Region II  
Jacob Javitz Federal Building  
26 Federal Plaza  
New York, New York 10278

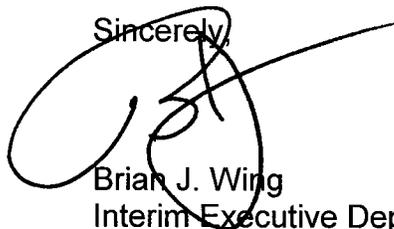
Ref. No. A-02-05-01018

Dear Mr. Edert:

Enclosed are the Department of Health's comments on the DHHS - OIG's Draft Audit (A-02-05-01018) on "Review of Pharmacy Claims Billed as Family Planning."

Thank you for the opportunity to comment.

Sincerely,



Brian J. Wing  
Interim Executive Deputy Commissioner

Enclosure

cc: Ms. Bachrach  
Mr. Charbonneau  
Mr. Hussar  
Ms. Kerker  
Mr. Howe  
Ms. McTague  
Ms. Napoli  
Mr. Reed  
Mr. Seward  
Ms. Shaw

**Department of Health  
Comments on the  
Department of Health and Human Services  
Office of Inspector General  
Draft Audit Report A-02-05-01018 on  
“Review of Pharmacy Claims Billed As  
Family Planning Under The  
New York State Medicaid Program”**

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The following are the Department of Health’s (DOH) comments in response to the Department of Health and Human Services (DHHS), Office of Inspector General (OIG) draft audit report (A-02-05-01018) on “Review of Pharmacy Claims Billed As Family Planning Under The New York State Medicaid Program.”

**Recommendation #1:**

We recommend that the State:

- refund \$6,132,366 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;
- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and
- determine the amount of federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

**Response #1:**

Staff reviewed the list of audited national drug codes (NDCs) and agreed that a refund is due; however, the Department is verifying the amount of the actual refund due and will have that information available shortly.

Staff completed the review of all NDCs presently coded as family planning to ensure that all are related to family planning.

Staff will review all NDCs in the Medicaid Management Information System (MMIS) coded as family planning on an annual basis to ensure appropriate coding.

The audit covered the period January 1, 2000 through December 31, 2003. The family planning indicator was removed from NDCs that are not family planning on MMIS on

March 30, 2006. A review of family planning pharmacy claims from January 1, 2004 to March 29, 2006 will be conducted and a refund of the difference between the family planning and state Federal medical assistance percentage will be made for inappropriately shared claims.