

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**THE NEW YORK STATE MANUFACTURER  
REBATE PROGRAM SIGNIFICANTLY  
REDUCED MEDICAID COSTS FOR  
HOME BLOOD-GLUCOSE TEST STRIPS  
BUT COULD ACHIEVE  
ADDITIONAL REDUCTIONS**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
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Gloria L. Jarmon  
Deputy Inspector General

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A-02-11-01042

# *Office of Inspector General*

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## EXECUTIVE SUMMARY

### BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program. Each State administers its Medicaid program in accordance with a CMS-approved State plan.

Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. In New York State, the Department of Health (Health Department) administers the Medicaid program.

Pursuant to sections 1832(a)(1), 1861(s)(6), and 1861(n) of the Act, Medicare Part B covers home blood-glucose test strips (test strips) that physicians prescribe for diabetics. The amount allowed for payment of test strips is generally equal to the lesser of the Medicare fee schedule amount or the amount charged by a supplier.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, mandated the establishment of a Medicare competitive acquisition program (competitive bidding) under which prices for selected medical supplies, including mail-order test strips, sold in specified competitive bidding areas (CBAs) would be determined by suppliers' bids rather than a fee schedule. The program was operational in nine metropolitan areas as of January 1, 2011.

Pursuant to section 1915(a)(1)(B) of the Act and requirements established in 42 CFR sections 431.51(d) and 431.54(d), the Medicaid agency may establish special procedures for the purchase of medical devices through a competitive bidding process or otherwise, if the State assures and CMS finds that adequate services or devices are available to recipients under the special procedures.

Title 18, section 505.5, of the New York Compilation of Code, Rules, & Regulations authorizes eligible providers in New York State to bill for medical supplies, including test strips. The Health Department reimburses providers the lesser of the usual and customary charge or the Medicaid fee schedule amount for each item.

Pursuant to chapter 497, part F, section 1, of the 2008 Laws of New York, the Health Department was required to implement a preferred diabetic supply program. The Health Department obtained approval from CMS to implement a preferred diabetic supply program, effective October 1, 2009, under the exemptions permitted in section 1915(a)(1)(B) of the Act and requirements established in 42 CFR sections 431.51(d) and 431.54(d). The program was structured to obtain enhanced rebates from preferred test strip manufacturers and reduce Medicaid program expenditures.

During the period October 1, 2009, through September 30, 2010, the Health Department made Medicaid payments totaling \$33,074,021 for test strips.

## **OBJECTIVE**

Our objective was to determine whether the Health Department could achieve Medicaid program savings for test strips.

## **SUMMARY OF FINDINGS**

The Health Department achieved savings of approximately 51 percent for the New York State Medicaid program by obtaining manufacturer rebates through its preferred diabetic supply program. However, the Health Department could have achieved additional savings of approximately \$5.9 million by establishing a competitive bidding program for test strips similar to the Medicare program.

We determined that the Medicare reimbursement rates for mail-order test strips obtained through competitive bids in the nine CBAs were lower than the Health Department's average Medicaid reimbursement rate after manufacturer rebates. Specifically, the highest Medicare CBA payment rate for a 50-unit package of test strips in calendar year 2011 was \$15.62, whereas New York State's net average Medicaid reimbursement rate for a 50-unit package of test strips provided during the period October 1, 2009, through September 30, 2010, was \$24.54. Establishing a competitive bidding mail-order program similar to the Medicare program could have resulted in a 36-percent reduction in the price of test strips paid under the New York State Medicaid program.

## **RECOMMENDATION**

We recommend that the Health Department establish a competitive bidding program similar to Medicare for the purchase of test strips, which could have resulted in additional savings to the New York State Medicaid program of \$5.9 million during the period October 1, 2009, to September 30, 2010.

## **HEALTH DEPARTMENT COMMENTS**

In written comments on our draft report, the Health Department generally concurred with our recommendation. Specifically, the Health Department stated that after our audit period, it competitively selected three preferred vendors to supply test strips to Medicaid beneficiaries, resulting in additional savings to the Medicaid program. The Health Department also indicated that it would continue to explore additional opportunities for savings to the Medicaid program.

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# INTRODUCTION

## BACKGROUND

### Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

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

### Federal and State Requirements

Pursuant to sections 1832(a)(1), 1861(s)(6), and 1861(n) of the Act, Medicare Part B covers home blood-glucose test strips (test strips) that physicians prescribe for diabetics. The amount allowed for payment of test strips is generally equal to the lesser of the Medicare fee schedule amount or the amount charged by a supplier.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, mandated the establishment of a Medicare competitive bidding program (competitive bidding) under which prices for selected medical supplies, including mail-order test strips, sold in specified competitive bidding areas (CBAs) would be determined by suppliers' bids rather than a fee schedule. The program was operational in nine metropolitan areas as of January 1, 2011.<sup>1</sup>

Pursuant to section 1915(a)(1)(B) of the Act and requirements established in 42 CFR sections 431.51(d) and 431.54(d), the Medicaid agency may establish special procedures for the purchase of medical devices through a competitive bidding process or otherwise, if the State assures and CMS finds that adequate services or devices are available to recipients under the special procedures.

Title 18, section 505.5, of the New York Compilation of Code, Rules, & Regulations authorizes eligible providers in New York State to bill for medical supplies, including test strips. The Health Department reimburses providers the lesser of the usual and customary charge or the Medicaid fee schedule amount for each item.

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<sup>1</sup> New York State is not currently one of the nine competitive bidding areas.

## **New York State's Preferred Diabetic Supply Program**

Pursuant to chapter 497, part F, section 1, of the 2008 Laws of New York, the Health Department was required to implement a preferred diabetic supply program. The Health Department obtained approval from CMS to implement a preferred diabetic supply program, effective October 1, 2009, under the exemptions permitted in section 1915(a)(1)(B) of the Act and requirements established in 42 CFR sections 431.51(d) and 431.54(d). The program was structured to obtain enhanced rebates from preferred test strip manufacturers and reduce Medicaid program expenditures.

The Health Department contracted with Magellan Medicaid Administration, Inc. (Magellan), to use Magellan's competitively bid Medicaid pharmacy benefit management services contract. Magellan solicited, received, and evaluated bids for manufacturer rebates on diabetic supplies. The Health Department selected the products that it would include in its preferred diabetic supply program based on quality standards and cost. The Health Department selected all glucometer and test strip manufacturers that participated in rebate agreements with Magellan.

During the period October 1, 2009, through September 30, 2010, the Health Department made Medicaid payments totaling \$33,074,021 for test strips.

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

### **Objective**

Our objective was to determine whether the Health Department could achieve Medicaid program savings for test strips.

### **Scope**

Our audit covered Medicaid payments totaling \$33,074,021 for 667,215 50-unit packages of test strips supplied to beneficiaries during the period October 1, 2009, through September 30, 2010. We limited our review to claims billed with a National Drug Code and where the quantity dispensed was in 50-unit increments.

We did not review the overall internal control structure of the Health Department. Rather, we limited our internal control review to obtaining an understanding of the Health Department's test strips reimbursement policies and how manufacturer rebates were determined.

We performed fieldwork from November 2011 through March 2012.

### **Methodology**

To accomplish our audit objective, we:

- reviewed applicable Federal and State laws and regulations;

- obtained an understanding of New York State’s preferred diabetic supply program, including how test strips were reimbursed and manufacturer rebates for test strips were determined;
- ran computer programming applications at the MMIS fiscal agent<sup>2</sup> that identified 364,799 claims for 667,215 50-unit packages of test strips totaling \$33.1 million during the period October 1, 2009, through September 30, 2010;
- determined the amount of manufacturer rebates received by the Health Department for test strips supplied to beneficiaries during the period October 1, 2009, through September 30, 2010;
- determined the approximate amount that the Health Department saved the New York State Medicaid program for test strips through its preferred diabetic supply program;
- identified the Medicare payment rates for test strips in the nine CBAs; and
- determined the approximate amount of additional savings the Health Department could have achieved if it implemented a competitive bidding program by comparing the amount that the Health Department reimbursed providers less the amount of rebates received with the highest Medicare CBA test strip payment rate.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **FINDINGS AND RECOMMENDATION**

The Health Department achieved savings of approximately 51 percent for the New York State Medicaid program by obtaining manufacturer rebates through its preferred diabetic supply program. However, the Health Department could have achieved additional savings of approximately \$5.9 million by establishing a competitive bidding program for test strips similar to the Medicare program.

We determined that the Medicare reimbursement rates for mail-order test strips obtained through competitive bids in the nine CBAs were lower than the Health Department’s average Medicaid reimbursement rate after manufacturer rebates. Specifically, the highest Medicare CBA payment rate for a 50-unit package of test strips in calendar year 2011 was \$15.62, whereas New York State’s net average Medicaid reimbursement rate for a 50-unit package of test strips provided during the period October 1, 2009, through September 30, 2010, was \$24.54. Establishing a competitive bidding mail-order program similar to the Medicare program could have resulted in a 36-percent reduction in the price of test strips.

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<sup>2</sup> The Health Department contracted with Computer Sciences Corporation to be its MMIS fiscal agent.

## **COST SAVINGS ACHIEVED BY NEW YORK STATE'S PREFERRED DIABETIC SUPPLY PROGRAM**

The Health Department achieved savings of approximately 51 percent for the New York State Medicaid program by obtaining manufacturer rebates for test strips through its preferred diabetic supply program. Specifically, for the period October 1, 2009, through September 30, 2010, the Health Department reimbursed providers \$33.1 million for 667,215 50-unit test strip packages and received manufacturer rebates of approximately \$16.7 million. The manufacturer rebates effectively reduced the net average cost of test strips from \$49.57 per 50-unit package to \$24.54, a savings of \$25.03 per package.

Table 1 details the cost savings the Health Department achieved through the use of manufacturer rebates during the period October 1, 2009, through September 30, 2010.

**Table 1: Cost Savings Achieved Through Manufacturer Rebates**

	<b>New York State Medicaid Before Rebate</b>	<b>New York State Medicaid After Rebate</b>	<b>Cost Savings (Difference)</b>
Total	\$33,074,021	\$16,371,599	\$16,702,422
Average per unit reimbursement rate (33,360,750 units)	0.99	0.49	0.50
Reimbursement rate (for 50-unit package) <sup>a</sup>	49.57	24.54	25.03

<sup>a</sup> Represents the average per unit reimbursement rate multiplied by 50 units. Differences are due to rounding the average per unit reimbursement rate.

## **MEDICARE COMPETITIVE BIDDING PROGRAM**

Pursuant to sections 1832(a)(1), 1861(s)(6), and 1861(n) of the Act, Medicare Part B covers test strips that physicians prescribe for diabetics. The amount allowed for payment of test strips is generally equal to the lesser of the Medicare fee schedule amount or the amount charged by a supplier.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, mandated the establishment of a Medicare competitive bidding program under which prices for selected medical supplies, including mail-order test strips, sold in specified CBAs would be determined by suppliers' bids rather than a fee schedule. The program set lower payment amounts for medical supply items while ensuring continued access to quality items and services. The intended result was to reduce beneficiary out-of-pocket expenses and create savings for taxpayers and the Medicare program. As of January 1, 2011, the Medicare competitive bidding program was operational in nine CBAs.

## ADDITIONAL SAVINGS FOR THE NEW YORK STATE MEDICAID PROGRAM

The Health Department could have achieved additional savings for test strips by establishing a competitive bidding program similar to the Medicare program. We determined that Medicare prices obtained through competitive bids in the nine CBAs were lower than New York State's average per unit reimbursement rate less manufacturer rebates. Specifically, the highest Medicare CBA payment rate for a 50-unit package of test strips in 2011 was \$15.62, whereas New York State's net average Medicaid reimbursement rate for a 50-unit package of test strips provided during the period October 1, 2009, through September 30, 2010, was \$24.54, a savings of \$8.92 per package.

Based on our review of Medicaid payments for test strips, manufacturer rebates obtained by the Health Department, and Medicare CBA payment rates, the Health Department may achieve additional savings of approximately \$5.9 million. Specifically, establishing a competitive bidding program similar to the Medicare program could have resulted in a 36-percent reduction in the cost of test strips paid under the New York State Medicaid program.

Table 2 details the additional cost savings that could be achieved through reducing New York State's average Medicaid reimbursement rate to amounts available under the Medicare CBA program.

**Table 2: Additional Cost Savings Through Reduction in New York State Medicaid Rate**

	<b>New York State Medicaid</b>	<b>Highest Medicare CBA Payment Rate</b>	<b>Additional Cost Savings (Difference)</b>
Reimbursement rate (for 50-unit package)	\$24.54	\$15.62	\$8.92
Average per unit reimbursement rate (50 units)	0.49	0.31	0.18
<b>Total<sup>b</sup></b>	<b>\$16,371,599</b>	<b>\$10,421,898</b>	<b>\$5,949,701</b>

<sup>b</sup> Represents the average per unit reimbursement rate multiplied by 33,360,750 units. Differences in the total calculations are due to rounding the per unit reimbursement rate.

## RECOMMENDATION

We recommend that the Health Department establish a competitive bidding program similar to Medicare for the purchase of test strips, which could have resulted in additional savings to the New York State Medicaid program of \$5.9 million during the period October 1, 2009, to September 30, 2010.

## **HEALTH DEPARTMENT COMMENTS**

In written comments on our draft report, the Health Department generally concurred with our recommendation. Specifically, the Health Department stated that after our audit period, it competitively selected three preferred vendors to supply test strips to Medicaid beneficiaries. By using these vendors, the Department estimated that it saved the Medicaid program approximately \$12.6 million for calendar year 2012. Finally, the Health Department stated that it would continue to explore additional opportunities for savings to the Medicaid program. The Health Department's comments are included in their entirety as the Appendix.

# **APPENDIX**

**APPENDIX: HEALTH DEPARTMENT COMMENTS**



May 21, 2013

Mr. 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-02-11-01042

Dear Mr. Edert:

Enclosed are the New York State Department of Health's comments on the U.S. Department of Health and Human Services, Office of Inspector General's Draft Audit Report A-02-11-01042 entitled, "The New York State Manufacturer Rebate Program Significantly Reduced Medicaid Costs for Home Blood-Glucose Test Strips But Could Achieve Additional Reductions."

Thank you for the opportunity to comment.

Sincerely,

Sue Kelly  
Executive Deputy Commissioner

Enclosure

cc: Jason Helgeson  
James C. Cox  
Mike Nazarko  
Diane Christensen  
Stephen La Casse  
John Brooks  
Ronald Farrell

**New York State Department of Health  
Comments on the  
Department of Health and Human Services  
Office of Inspector General  
Draft Audit Report A-02-11-01042 entitled,  
The New York State Manufacturer Rebate Program Significantly  
Reduced Medicaid Costs for Home Blood-Glucose Test Strips But  
Could Achieve Additional Reductions**

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The following are the New York State Department of Health's (Department) comments in response to the Department of Health and Human Services, Office of Inspector General (OIG) Draft Audit Report A-02-11-01042 entitled, "The New York State Manufacturer Rebate Program Significantly Reduced Medicaid Costs for Home Blood-Glucose Test Strips But Could Achieve Additional Reductions."

**Recommendation #1:**

We recommend that the Health Department establish a competitive bidding program similar to Medicare for the purchase of test strips, which could have resulted in additional savings to the New York State Medicaid program of \$5.9 million during the period October 1, 2009 to September 30, 2010.

**Response #1:**

The New York State Department of Health currently administers a competitive bidding program for diabetic test strips. After the period conducted during this audit (from October 1, 2009 to September 30, 2010), the Department competitively selected three preferred vendors to supply diabetic test strips to Medicaid members, resulting in additional savings to the State's Medicaid program.

According to our analysis, the Medicare Pilot Program ("Program") makes the assumption that New York's Medicaid program could select a mail order vendor for diabetic test strips at better pricing while also allowing members to get prescriptions at certain participating retail locations at greater cost to the member. Due to federal requirements, particularly the inability to initiate any incentives such as no copays, coupons for free merchandise, etc., more aggressive volume induced discounted pricing is difficult to obtain. New York's Medicaid program actually had a voluntary mail order program from 1995 to 2001. This program was terminated due to very low use, and the lack of incentives was cited as the reason for the low use.

Notwithstanding the issue above related to attaining more aggressive discounted pricing, the audit compared pricing data for the period October 1, 2009 through September 30, 2010 to the Medicare Pilot mail order pricing which began January 1, 2011. The Department believes a fairer comparison would have been to utilize data beginning in March 2011, two months after the start of the Medicare pilot program, when the Department competitively selected three preferred

vendors to supply diabetic test strips to all members of NYS Medicaid. This significantly increased savings to the program. For the 2012 calendar year the Department calculates that it saved approximately \$12.6 million dollars through its competitive bidding program for diabetic test strips.

Taking the Department's pricing and rebate data and applying it to the utilization of diabetic test strips for the period April 2011 to March 2012 would bring the differential savings between the Medicare pilot program and NYS Medicaid from the \$5.9 million stated in the audit report to a differential of \$830,000, thus demonstrating the Department's competitive bidding program predominantly achieves the desired additional savings.

Moreover, the Department will continue to explore additional savings options to ensure that we continually seek savings opportunities to the State's Medicaid program in future years.