

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE NEW YORK MEDICAID
PROGRAM COULD SIGNIFICANTLY
LOWER PAYMENT RATES FOR
SELECTED DURABLE MEDICAL
EQUIPMENT AND SUPPLIES**

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Office of Inspector General

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EXECUTIVE SUMMARY

The New York Medicaid program could have saved an estimated \$8.9 million on selected durable medical equipment items for 2011 and 2012 by obtaining pricing similar to Medicare's Competitive Bidding Program.

WHY WE DID THIS REVIEW

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 mandated the establishment of the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program (Competitive Bidding Program). The Competitive Bidding Program sets lower payment rates than conventional Medicare payment rates for selected durable medical equipment and supplies (DME items) while ensuring beneficiary access to quality items and services. Previously issued Office of Inspector General reports on selected DME items identified potential cost savings if Medicaid State agencies had obtained pricing similar to the Competitive Bidding Program payment rates. This review is part of a series of reviews in various States to identify Medicaid program cost savings that could be achieved for selected DME items and supplies.

In a separate audit, we identified an estimated \$5.9 million that the New York Medicaid program could have saved on diabetic test strips during a 1-year period if it had obtained pricing similar to the pricing that Medicare obtained through the Competitive Bidding Program. Diabetic test strips are just 1 of 339 DME items covered by the Competitive Bidding Program. Because of the savings that we identified for diabetic test strips, we conducted this review of other competitively bid DME items.

Our objective was to determine whether the New York Medicaid program could have achieved cost savings for 70 selected DME items.

BACKGROUND

In New York, the Department of Health (State agency) administers the Medicaid program. The State agency allows eligible providers in the program to charge for DME items and reimburses fee-for-service providers the lesser of the dollar amount of the submitted charge or the Medicaid maximum payment rate.

Under Medicare's Competitive Bidding Program, prices for selected DME items sold in specified competitive bidding areas (CBAs) are determined by suppliers' bids rather than a fee schedule. The first round of bidding closed in December 2009, and competitive bidding became operational as of January 2011 in nine CBAs. The first round of bidding included 339 DME items identified by Healthcare Common Procedure Coding System codes and descriptors established by CMS from 9 product categories.

HOW WE CONDUCTED THIS REVIEW

Our review covered Medicaid payments for selected DME items made in calendar years (CYs) 2011 and 2012 (audit period) from eight CBA product categories. We limited our review to paid lines of service for 70 DME items that represented 98 percent of total dollars paid by the State agency for DME items with CBA rates during our audit period. We excluded one product category because only one CBA rate had been established for the items. Additionally, we excluded DME items (1) with Medicaid payments that were associated with bundled services, (2) with paid lines of service that indicated that the New York Medicaid program was not the only payor, or (3) that had total Medicaid payments less than \$1,000. We compared New York's Medicaid payment rates for the selected DME items with the average first-round Medicare CBA payment rates for the same product types during our audit period.

WHAT WE FOUND

The New York Medicaid program could have saved an estimated \$8.9 million for our audit period by establishing a competitive bidding program for DME items similar to pricing that Medicare obtained through its Competitive Bidding Program. For 54 of the 70 selected DME items that we reviewed, we determined that average Medicare payment rates obtained through competitive bidding were significantly lower than New York's average Medicaid payment rates.

WHAT WE RECOMMEND

We recommend that the State agency establish a competitive bidding program that functions similarly to Medicare's Competitive Bidding Program for the reimbursement of 54 selected DME items, which could have resulted in cost savings of approximately \$8.9 million for our 2-year audit period.

STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments on our draft report, the State agency disagreed with our recommendation. Specifically, the State agency stated that implementing our recommendation would require statutory authority through legislative approval, a process that would involve consensus among various stakeholders and necessitate significant dedication of its resources. Further, the State agency indicated that our methods used to compare the Medicare Competitive Bidding Program to the New York Medicaid program may not provide an accurate estimate of potential savings. Because of this, and the significant opposition that a competitive bidding program would generate, the State agency stated that it will not pursue a DME competitive bidding program at this time. However, the State agency indicated that it will continue to explore and implement cost savings strategies for DME.

After reviewing the State agency's comments, we maintain that our finding and our methodology for calculating the potential cost savings are valid.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 mandated the establishment of the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program (Competitive Bidding Program). The Competitive Bidding Program sets lower payment rates than conventional Medicare payment rates for selected durable medical equipment and supplies (DME items) while ensuring beneficiary access to quality items and services. Previously issued Office of Inspector General (OIG) reports on selected DME items identified potential cost savings if Medicaid State agencies had obtained pricing similar to the Competitive Bidding Program payment rates. This review is part of a series of reviews in various States to identify Medicaid program cost savings that could be achieved for selected DME items and supplies. (See Appendix A for a list of related OIG reports.)

In a separate audit, we identified an estimated \$5.9 million that the New York Medicaid program could have saved on diabetic test strips during a 1-year period if it had obtained pricing similar to the pricing that Medicare obtained through the Competitive Bidding Program. Diabetic test strips are just 1 of 339 DME items covered by the Competitive Bidding Program. Because of the savings that we identified for diabetic test strips, we conducted this review of other competitively bid DME items.

OBJECTIVE

Our objective was to determine whether the New York Medicaid program could have achieved cost savings for 70 selected DME items.

BACKGROUND

The New York Medicaid Program: How Payment Rates Are Determined for Durable Medical Equipment

The New York Department of Health (State agency) administers the New York Medicaid program. The State agency allows eligible providers in the program to charge for DME items. In general, payments that the State agency makes for the purchase of DME items must not exceed the lower of the maximum reimbursable amount shown in the State agency's fee schedule for DME items or the usual and customary price charged to the general public for the same or similar product. The maximum amount reimbursable is determined for each DME item based on an average cost of products representative of that item.¹

The New York Medicaid program may establish special procedures for purchasing medical devices through competitive bidding, or another process if the State assures (in the required

¹ 18 NYCRR § 505.5(d).

certification) and the Centers for Medicare & Medicaid Services (CMS) finds that adequate services or devices are available to beneficiaries under those procedures.²

The Medicare Competitive Bidding Program: How the Federal Government Has Obtained Lower Prices for Durable Medical Equipment

Under the Medicare Competitive Bidding Program, prices for selected DME items sold in specified competitive bidding areas (CBAs) are determined by suppliers' bids rather than a fee schedule. The goal of the Competitive Bidding Program is to reduce beneficiary out-of-pocket expenses and create savings for taxpayers and the Medicare program while ensuring that high-quality health care products and services are available to beneficiaries.

The first round of bidding closed in December 2009, and competitive bidding became operational as of January 2011 in nine CBAs nationwide. This round of bidding included 339 DME items identified by Healthcare Common Procedure Coding System (HCPCS) codes and descriptors established by CMS from the following 9 product categories:

- oxygen supplies and equipment;
- standard power wheelchairs, scooters, and related accessories;
- complex rehabilitative power wheelchairs and related accessories;
- mail-order diabetic supplies;
- enteral nutrients, equipment, and supplies;
- continuous positive airway pressure devices (CPAPs), respiratory assist devices (RADs), and related supplies and accessories;
- hospital beds and related accessories;
- walkers and related accessories; and
- support surfaces mattresses and overlays (Miami-Fort Lauderdale-Pompano Beach, Florida CBA only).

² Social Security Act § 1915(a)(1)(B), 42 CFR § 431.51(d), and 42 CFR § 431.54(d).

HOW WE CONDUCTED THIS REVIEW

Our review covered Medicaid payments for selected DME items made in calendar years (CYs) 2011 and 2012 (audit period) from eight CBA product categories.³ We limited our review to paid lines of service for 70 DME items that represented 98 percent of total dollars paid by the State agency for DME items with CBA rates during our audit period. We compared New York's Medicaid average payment rates for these selected DME items with the average first-round Medicare CBA payment rates for the same product types during our audit period.⁴ We did not, however, analyze the cost associated with setting up a competitive bidding program under New York's Medicaid program.

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.

Appendix B contains the details of our scope and methodology. Appendix C contains State and Federal requirements for purchases of DME items.

FINDING

MEDICARE COMPETITIVE BIDDING PROGRAM RATES WERE SIGNIFICANTLY LOWER THAN NEW YORK'S AVERAGE MEDICAID PAYMENT RATES FOR SELECTED ITEMS OF DURABLE MEDICAL EQUIPMENT

The New York Medicaid program could have saved an estimated \$8.9 million for our audit period by establishing a competitive bidding program for DME items similar to pricing that Medicare obtained through its Competitive Bidding Program. For 54 of the 70 selected DME items that we reviewed, we determined that average Medicare payment rates obtained through competitive bids were significantly lower than New York's average Medicaid payment rates.

For 54 of the 70 selected DME items that we reviewed, the State agency reimbursed providers approximately \$50.8 million for DME items with payment rates above the average Medicare CBA payment rate during our audit period. We estimated that the State agency's payments could have been reduced to \$41.9 million for the selected DME items if it had used a competitive bidding program to obtain pricing similar to Medicare's Competitive Bidding Program. The table on the next page summarizes the potential cost savings achievable through the use of competitive bidding for the eight product categories of the selected DME items. See

³ We excluded the product category associated with support surfaces because these items had only one CBA rate established. Additionally, we excluded DME items (1) with Medicaid payments that were associated with bundled services, (2) with paid lines of service that indicated that the New York Medicaid program was not the only payor, or (3) that had total Medicaid payments less than \$1,000.

⁴ Round one of the Medicare competitive bidding program did not include a CBA in New York. Therefore, we used the average of the eight CBA payment rates for our comparison.

Appendixes D and E for detailed lists of the potential cost savings for selected DME items by HCPCS codes.

Table: Potential Cost Savings to the New York Medicaid Program for the Eight DME Product Categories

Product Category	New York Medicaid Program Costs	Average Medicare CBA Costs	Potential Cost Savings	Average Savings
Oxygen supplies and equipment	\$11,249,235	\$8,148,155	\$3,101,080	28%
Standard power wheelchairs, scooters, and related accessories	5,007,050	4,289,776	717,274	14%
Complex rehabilitative power wheelchairs and related accessories	61,107	54,553	6,554	11%
Mail-order diabetic supplies	3,525,503	3,209,594	315,909	9%
Enteral nutrients, equipment, and supplies	28,886,514	24,666,463	4,220,052	15%
CPAPs, RADs, and related supplies and accessories	676,278	555,763	120,514	18%
Hospital beds and related accessories	434,552	354,513	80,039	18%
Walkers and related accessories	960,848	648,851	311,997	32%
Total	\$50,801,087	\$41,927,668	\$8,873,419	17%

RECOMMENDATION

We recommend that the State agency establish a competitive bidding program that functions similarly to Medicare’s Competitive Bidding Program for the reimbursement of 54 selected DME items, which could have resulted in cost savings of approximately \$8.9 million for our 2-year audit period.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency disagreed with our recommendation. Specifically, the State agency stated that implementing our recommendation would require statutory authority through legislative approval, a process that would involve consensus among various stakeholders and necessitate significant dedication of its resources. Further, the State agency indicated that our methods used to compare the Medicare Competitive Bidding Program to the New York Medicaid program may not provide an accurate estimate of potential savings. Because of this, and the significant opposition that a competitive bidding program would generate, the State agency stated that it will not pursue a DME competitive bidding program at

this time. However, the State agency indicated that it will continue to explore and implement cost savings strategies for DME.

The State agency's comments appear in their entirety as Appendix F.

After reviewing the State agency's comments, we maintain that our finding and our methodology for calculating the potential cost savings are valid.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>The California Medicaid Program Could Significantly Lower Payment Rates for Selected Durable Medical Equipment and Supplies</i>	<u>A-09-13-02028</u>	3/24/2014
<i>The Minnesota Medicaid Program Could Significantly Lower Payment Rates for Selected Durable Medical Equipment and Supplies</i>	<u>A-05-13-00015</u>	1/13/2014
<i>Medicaid DMEPOS Costs May Be Exceeding Medicare Costs in Competitive Bidding Areas</i>	<u>OEI-06-13-00470</u>	9/5/2013
<i>New Jersey Medicaid Program Could Achieve Savings by Reducing Home Blood-Glucose Test Strip Prices</i>	<u>A-02-12-01010</u>	9/5/2013
<i>The New York State Manufacturer Rebate Program Significantly Reduced Medicaid Costs for Home Blood-Glucose Test Strips But Could Achieve Additional Reductions</i>	<u>A-02-11-01042</u>	7/2/2013
<i>Illinois Significantly Reduced Medicaid Costs for Home Blood-Glucose Test Strips But Could Achieve Additional Reductions</i>	<u>A-05-12-00009</u>	5/6/2013
<i>The Ohio Medicaid Program Could Significantly Lower Payment Rates for Selected Durable Medical Equipment and Supplies</i>	<u>A-05-12-00038</u>	4/30/2013
<i>Indiana Reduced Medicaid Costs for Home Blood-Glucose Test Strips by Approximately 50 Percent Using Manufacturer Rebates</i>	<u>A-05-12-00011</u>	6/21/2012
<i>Ohio Medicaid Costs for Home Blood-Glucose Test Strips Could Be Reduced by Approximately 50 Percent</i>	<u>A-05-11-00098</u>	3/13/2012

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered Medicaid payments for 70 selected DME items for the audit period. We limited our review to paid lines of service for 70 DME items for CYs 2011 through 2012, which represented 98 percent of total dollars paid for selected DME items from eight CBA product categories during our audit period.

Of the 339 DME items comprising the first round of bidding under the Medicare Competitive Bidding Program, the 70 items that we selected were associated with 8 product categories. We excluded the product category associated with support surfaces because these items had only one CBA rate established.⁵ Additionally, we excluded DME items (1) with Medicaid payments that were associated with bundled services, (2) with paid lines of service that indicated that the New York Medicaid program was not the only payor, or (3) that had total Medicaid payments less than \$1,000.

We did not review the overall internal control structure of the State agency. We limited our internal control review to obtaining an understanding of the State agency's pricing and reimbursement policies related to the 70 selected DME items.

We performed our fieldwork from August 2013 through May 2014.

METHODOLOGY

To accomplish our audit objective, we:

- reviewed applicable Federal and State requirements for reimbursement of DME;
- identified the nine Medicare CBAs and all DME competitive bid payment rates;
- selected eight product categories for review and excluded one product category associated with support surfaces;
- obtained from the Medicaid Management Information System and reviewed a list of New York Medicaid payments for DME items associated with the eight product categories selected under the Medicare Competitive Bidding Program for the audit period and selected 70 DME items for review;
- calculated the average of the eight Medicare CBA payment rates;

⁵ The product category associated with support surfaces had a CBA rate established only in Miami, FL. Because we used the average Medicare CBA rate for our review, we excluded these items.

- compared the New York average Medicaid program payment for each selected DME item with the average Medicare CBA payment for the same DME item during the review period;
- determined the number of DME items with Medicaid payment rates above the average Medicare CBA payment rate;
- calculated the amounts that the State agency could have paid if the New York Medicaid program had used the average CBA payment rate;
- compared the amount that the State agency reimbursed providers with the average CBA payment rate to determine the approximate dollar amount that New York could have saved; and
- discussed the results of the review with State agency officials.

Although we did not independently verify the reliability of the Medicaid paid claims data, we discussed the data with State agency officials and obtained claim detail to verify New York Medicaid payment amounts for selected claims to determine the reliability of the data. In our opinion, the data obtained was sufficiently reliable for this audit.

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.

APPENDIX C: STATE AND FEDERAL REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PURCHASES

NEW YORK REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PURCHASES

Title 18 § 505.5 of the New York Compilation of Codes, Rules, & Regulations (NYCRR) allows the State agency to permit eligible providers in the New York Medicaid program to bill for DME items.

Title 18 § 505.5(d) of the NYCRR allows the State agency to reimburse providers the lesser of the submitted charge or the Medicaid maximum fee schedule amount for durable medical equipment. The maximum reimbursable amount will be determined for each item of durable medical equipment based on an average cost of products representative of that item or the usual and customary price charged to the general public for the same or similar products.

FEDERAL REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PURCHASES

Medicaid Durable Medical Equipment

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

Medicare Durable Medical Equipment

Section 1834(a) of the Act provides the requirements for the DME fee schedule payment methodology. Medicare generally pays for most medical equipment and supplies on the basis of fee schedules. Pursuant to 42 CFR § 405.502(a), the law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are furnished and charged for. The criteria for determining what charges are reasonable include the prevailing charges in the locality for similar services. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003⁶ mandated that CMS establish the Competitive Bidding Program for selected durable medical equipment, prosthetics, orthotics, and supplies categories by January 1, 2011, in competitive bidding areas. Round 1 of the Competitive Bidding Program was implemented on January 1, 2011, for nine product categories in nine competitive bidding areas.

⁶ P.L. No. 108-173, section 302, amending Social Security Act § 1847.

APPENDIX D: POTENTIAL COST SAVINGS FOR EIGHT SELECTED DURABLE MEDICAL EQUIPMENT PRODUCT CATEGORIES

Product Category	HCPCS Code	NY Medicaid Costs	Average Medicare CBA Costs	Potential Cost Savings	Savings
Oxygen supplies and equipment	E1390	\$9,045,872	\$7,131,179	\$1,914,693	21%
	E1392	113,776	35,313	78,463	69%
	E0431	2,039,011	958,157	1,080,854	53%
	E0434	50,576	23,506	27,070	54%
	Total	\$11,249,235	\$8,148,155	\$3,101,080	28%
Standard power wheelchairs, scooters, and related accessories	E0955	\$335,723	\$280,714	\$55,009	16%
	E0956	343,436	303,922	39,514	12%
	E0957	81,436	70,963	10,473	13%
	E0960	154,285	138,612	15,673	10%
	E0973	81,439	66,396	15,043	18%
	E0990 (NU)	374,414	328,058	46,356	12%
	E0990 (RR)	19,791	18,375	1,416	7%
	E2361	146,379	120,746	25,633	18%
	E2363	66,615	55,066	11,549	17%
	E2365	63,732	48,973	14,759	23%
	E2366	51,171	38,806	12,365	24%
	E2370	238,380	180,998	57,382	24%
	E2386	91,619	75,726	15,893	17%
	E2392	70,799	58,428	12,371	17%
	E2601	125,671	104,907	20,764	17%
	E2603	62,581	51,768	10,813	17%
	E2605	85,534	72,663	12,871	15%
	E2607	269,252	217,078	52,174	19%
	E2611	403,026	334,102	68,924	17%
	E2613	191,329	163,075	28,254	15%
	E2615	242,104	205,862	36,242	15%
	E2620	242,795	200,510	42,285	17%
	E2622	128,016	109,751	18,265	14%
	K0040	245,385	198,294	47,091	19%
K0822	212,024	197,212	14,812	7%	
K0823	680,115	648,772	31,343	5%	
Total	\$5,007,050	\$4,289,776	\$717,274	14%	
Complex rehabilitative power wheelchairs and related accessories	E2375	61,107	54,553	6,554	11%
	Total	\$61,107	\$54,553	\$6,554	11%

Product Category	HCPCS Code	NY Medicaid Costs	Average Medicare CBA Costs	Potential Cost Savings	Savings
Mail-order diabetic supplies	A4258	95,708	51,767	43,941	46%
	A4259	3,429,794	3,157,827	271,967	8%
	Total	\$3,525,503	\$3,209,594	\$315,909	9%
Enteral nutrients, equipment, and supplies	B4035	8,036,189	7,317,585	718,604	9%
	B4036	346,991	346,050	941	9%
	B4088	876,457	186,507	689,950	79%
	B4149	210,802	198,079	12,723	6%
	B4150	13,821,403	13,289,359	532,044	4%
	B4153	3,029,963	2,524,596	505,367	17%
	B4155	2,443,494	731,135	1,712,359	70%
	E0776 (NU)	66,809	49,728	17,081	26%
	E0776 (RR)	54,406	23,423	30,983	57%
Total	\$28,886,514	\$24,666,463	4,220,051	15%	
CPAPs, RADs, and related supplies and accessories	A7030	191,228	147,388	43,840	23%
	A7034	122,083	117,614	4,469	4%
	A7035	69,315	55,117	14,198	20%
	A7037	53,580	49,217	4,363	8%
	E0470	109,647	92,406	17,241	16%
	E0561 (NU)	110,283	77,665	32,618	30%
	E0561 (RR)	4,233	2,968	1,265	30%
	E0562 (RR)	15,908	13,388	2,520	16%
Total	\$676,278	\$555,763	120,515	18%	
Hospital beds and related accessories	E0260	162,612	138,202	24,410	15%
	E0271 (NU)	259,221	205,728	53,493	21%
	E0271 (RR)	4,550	3,416	1,134	25%
	E0301	8,170	7,167	1,003	12%
	Total	\$434,552	\$354,513	\$80,039	18%
Walkers and related accessories	E0143	668,127	429,118	239,009	36%
	E0144	140,529	114,366	26,163	19%
	E0149	82,322	59,186	23,136	28%
	E0156	69,870	46,182	23,688	34%
	Total	\$960,848	\$648,851	\$311,997	32%
Grand Total		\$50,801,087	\$41,927,668	\$8,873,419	17%

Note: A total of 54 HCPCS codes comprise the 8 selected DME product categories. Four of the HCPCS codes appear twice because the same code is used for both the purchase and rental of the product.

**APPENDIX E: POTENTIAL COST SAVINGS FOR THE SELECTED
DURABLE MEDICAL EQUIPMENT ITEMS**

HCPCS Code	Product Brief Description	New York Medicaid Average Payment Rate	Average Medicare CBA Payment Rate	Potential Cost Savings (Per Unit Reimbursed)
K0822	Power wheelchair, Group 2 Standard, Sling/Solid	\$2,683.85	\$2,496.36	\$187.49
E2370	Power wheelchair component, motor and gear box	713.71	541.91	171.80
K0823	Power wheelchair, Group 2 Standard, Captains Chair	2,677.62	2,554.22	123.40
B4088	Gastronomy/jejunostomy tube	131.96	28.08	103.88
E1392	Portable oxygen concentrator (rental)	134.97	41.89	93.08
E2620	Positioning wheelchair back cushion, planar back	487.54	402.63	84.91
E2375	Power wheelchair accessory, nonexpendable controller	736.23	657.26	78.97
E2615	Positioning wheelchair back cushion, posterior-lateral	404.86	344.25	60.61
E0149	Walker, heavy duty, wheeled	195.08	140.25	54.83
E2366	Power wheelchair accessory, battery charger	222.48	168.72	53.76
E0144	Walker, enclosed, four-sided framed	277.73	226.02	51.71
E2613	Positioning wheelchair back cushion	347.87	296.50	51.37
E2607	Skin protection and positioning wheelchair seat cushion	260.40	209.94	50.46
E2611	General use wheelchair back cushion	267.44	221.70	45.74
E2622	Skin protection wheelchair seat cushion	294.29	252.30	41.99

HCPCS Code	Product Brief Description	New York Medicaid Average Payment Rate	Medicare CBA Payment Rate (Average of Eight CBAs)	Potential Cost Savings (per Unit Reimbursed)
E0143	Walker, folding, wheeled	\$102.96	\$66.13	\$36.83
A7030	Full face mask	158.30	122.01	36.29
E2605	Positioning wheelchair seat cushion	238.92	202.97	35.95
E0271	Mattress, innerspring	164.90	130.87	34.03
E1390	Oxygen concentrator, single delivery (rental)	147.35	116.16	31.19
E0561	Humidifier, nonheated	98.73	69.53	29.20
E2363	Power wheelchair accessory, group 24 sealed lead-acid battery	166.95	138.01	28.94
E0955	Wheelchair accessory, headrest, cushion	175.50	146.74	28.76
E0470	Respiratory assist device (rental)	164.39	138.54	25.85
E0434	Portable liquid oxygen system (rental)	44.80	20.82	23.98
E0301	Hospital bed, heavy duty, extra wide (rental)	194.52	170.65	23.87
E0431	Portable gaseous oxygen system (rental)	44.31	20.82	23.49
E2603	Skin protection wheelchair seat cushion	134.58	111.33	23.25
E2386	Power wheelchair accessory, foam filled drive wheel tire	133.95	110.71	23.24
E2365	Power wheelchair accessory, u-1 sealed lead acid battery	99.74	76.64	23.10
E0776	IV pole	87.68	65.26	22.42
E2361	Power wheelchair accessory, 22nf sealed lead-acid battery	125.22	103.29	21.93
E0957	Wheelchair accessory, medial thigh support	123.39	107.52	15.87

HCPCS Code	Product Brief Description	New York Medicaid Average Payment Rate	Medicare CBA Payment Rate (Average of Eight CBAs)	Potential Cost Savings (per Unit Reimbursed)
E0973	Wheelchair accessory, adjustable height, detachable armrest	\$85.46	\$69.67	\$15.79
E0260	Hospital bed, semielectric (rental)	94.54	80.35	14.19
K0040	Angle adjustable footplate, each	66.94	54.09	12.85
E0990	Wheelchair accessory, elevating leg rest	90.22	79.05	11.17
E0956	Wheelchair accessory, lateral trunk or hip support	88.45	78.27	10.18
E2601	General use wheelchair seat cushion	52.94	44.19	8.75
E0776	IV pole (rental)	15.17	6.53	8.64
E2392	Power wheelchair accessory, solid (rubber/plastic) caster tire	48.13	39.72	8.41
E0960	Wheelchair accessory, shoulder harness or chest straps	80.82	72.61	8.21
E0156	Seat attachment, walker	22.45	14.84	7.61
A7035	Headgear used with positive airway pressure	27.89	22.18	5.71
A4258	Spring-powered device for lancet, each	10.98	5.94	5.04
E0271	Mattress, innerspring (rental)	17.43	13.09	4.34
E0562	Humidifier, heated (rental)	21.35	17.97	3.38
E0561	Humidifier, non-heated (rental)	9.91	6.95	2.96
A7034	Nasal interface	76.06	73.28	2.78
A7037	Tubing used with positive airway pressure	22.31	20.49	1.82
B4155	Enteral formula, nutritionally incomplete/modular nutrients	2.37	0.71	1.66

HCPCS Code	Product Brief Description	New York Medicaid Average Payment Rate	Medicare CBA Payment Rate (Average of Eight CBAs)	Potential Cost Savings (per Unit Reimbursed)
B4035	Enteral feeding supply kit; pump fed	\$8.24	\$7.50	\$0.74
E0990	Wheelchair accessory, elevating leg rest (rental)	8.51	7.90	0.61
A4259	Lancets (per 100 pack)	4.55	4.19	0.36
B4153	Enteral formula, nutritionally complete hydrolyzed proteins	1.74	1.45	0.29
B4149	Enteral formula manufactured blenderized natural foods	1.19	1.12	0.07
B4150	Enteral formula, nutritionally complete with intact nutrients	0.48	0.46	0.02
B4036	Enteral feeding supply kit; gravity fed	5.11	5.10	0.01

Note: A total of 54 HCPCS codes comprise the 8 selected DME product categories. Four of the HCPCS codes appear twice because the same code is used for both the purchase and rental of the product.

APPENDIX F: STATE AGENCY COMMENTS



December 16, 2014

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-02-13-01042

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-02-13-01042 entitled, "The New York Medicaid Program Could Significantly Lower Payment Rates for Selected Durable Medical Equipment and Supplies."

Thank you for the opportunity to comment.

Sincerely,

Sally Dreslin

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

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**New York State Department of Health
Comments on the
Department of Health and Human Services
Office of Inspector General
Draft Audit Report A-02-13-01042 entitled
The New York Medicaid Program Could
Significantly Lower Payment Rates for
Selected Durable Medical Equipment and Supplies**

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-02-13-01042 entitled, "The New York Medicaid Program Could Significantly Lower Payment Rates for Selected Durable Medical Equipment and Supplies."

Background:

New York State is a national leader in its oversight of the Medicaid Program. Through the efforts of the Department and the Office of the Medicaid Inspector General (OMIG), over the last five years, New York State alone accounted for 54.9 percent of the national total of fraud, waste, and abuse recoveries. These results reflect a trend of increased productivity and enforcement. Over the last three calendar years, the administration's Medicaid enforcement efforts have recovered over \$1.73 billion, a 34 percent increase over the prior three-year period.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality care for its Medicaid members. Since 2011, Medicaid spending has remained under the Global Spending Cap, while at the same time providing health care coverage to an additional 840,000 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to \$7,929 in 2013, consistent with levels from a decade ago.

Recommendation:

The OIG recommends that the State agency establish a competitive bidding program that functions similarly to Medicare's Competitive Bidding Program for the reimbursement of 54 selected DME items, which could have resulted in a cost savings of approximately \$8.9 million for our 2-year audit period.

Response:

The Department thanks the OIG for its analysis of Durable Medical Equipment (DME) fees paid by the New York State Medicaid Program. The audit report and recommendations have been carefully considered and the following comments and observations are provided in response to this Draft Report.

Implementing a Medicare-like Competitive Bidding Areas (CBA) would require statutory authority through legislative approval, state regulatory revisions and State Plan Amendment changes. This would involve consensus among the various stakeholders, including providers, beneficiaries, advocates and legislators. Achieving a consensus would necessitate significant dedication of resources by the Department at a time when the New York State Medicaid program is moving more

and more beneficiaries out of the traditional fee-for-service program examined in this audit towards managed care, managed long term care and other reimbursement models. While the Department respects the approach and potential value of a competitive bid process, we find that the methods used in this audit report to compare New York State Medicaid Reimbursable Amounts (MRA) to averaged CBA amounts may not provide an accurate estimate as to the potential savings of a CBA initiative by New York State Medicaid.

The report states that the eight Round 1 competitive bid rates (established in 2009 and implemented in 2011) were averaged and compared to the New York MRA for 74 DME items. A review of the Round 1 CBA areas used in the audit analysis reveals that all are major metropolitan areas located throughout the country with none being within New York State. Thus, the CBA average payment used may not be representative of DME costs within New York. CBAs within New York were not established until 2013, after the audit period, and still only represent major metropolitan areas of the state.

We also find that the audit did not take into consideration the difference in beneficiary populations between New York State Medicaid and the Federal Medicare programs. Medicaid services a large population of children and special needs adults, some with complex health problems not prevalent in the Medicare population. The Medicaid reimbursement levels must accommodate a variety of needs, products and pricing sufficient to ensure access to medically necessary services.

As an example, the audit report suggested that \$1.7 million could be saved under code B4155 (modular enteral formula), used for treatment of rare diseases or conditions where a specific specialized dietary component is necessary. These conditions are not likely as prevalent in the Medicare population who are receiving less expensive enteral nutritional formula. In addition, Medicare does not cover orally administered enteral formula, while New York Medicaid does. Often the modular formula is taken orally to treat a specific condition, while the rest of the individual's nutritional needs are met through eating food. The bidders for the Medicare enteral formula contracts were focused on a population who receive all of their nutrition through a feeding tube, and the CBA fee reflects that.

Additionally, the CBA to MRA analysis did not take into account that New York Medicaid and Medicare have a different reimbursement policy for respiratory equipment. In Medicaid, the respiratory equipment is rented on a monthly basis for as long as the beneficiary requires the equipment. The rental fee includes the equipment, supplies, delivery, repairs and maintenance. The Medicare program uses a capped rental reimbursement policy with supplies and maintenance potentially payable separately. The method used to estimate the potential savings for E1390, oxygen concentrator (\$1.9 million) and E0431, portable gaseous oxygen (\$1 million) did not account for this difference. The two reimbursement policies produce fees that should not be practically compared when producing a cost savings estimate.

The costs of developing and maintaining a New York State CBA initiative were not considered in the potential cost savings calculation. The costs would be reasonably expected to be significant. The other factors noted above regarding the accuracy of the potential savings figure, along with the significant opposition a CBA program would generate, lead the Department to the decision that it will not pursue a DME CBA program at this time.

The Department will continue to explore and implement cost savings strategies for DME. These will include ongoing review of MRAs with reference to the established CBA reimbursement amounts. Federal CBA reimbursement amounts for representative products that can be procured and distributed at a lower competitive price by all vendors within the Medicaid provider network could be used as a benchmark reimbursement reference point. The Department will continue to review and evaluate MRAs on a code by code basis to find costs savings while providing medically necessary equipment and supplies to the State's Medicaid beneficiaries.