

April 23, 2008

Tammie S. Brown, Audit Manager
Department of Health and Human Services
Office of Inspector General
Office of Audit Services
National External Audit Review Center
1100 Walnut St., Suite 850
Kansas City, Mo 64106

Dear Ms. Brown:

Re: Request for Clarification of OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” Requirements for Reporting Certain Medicaid Payments of County and City SEFA

As Chairman of the New York State Society of Certified Public Accountants (NYSSCPA) Committee on Government Accounting and Auditing (“GA & A Committee”), I am asking for your assistance in resolving a practice issue that affects many of our Society members. The issue involves the interpretation of the OMB Circular A-133 requirements on the treatment of certain Medicaid payments as Federal Awards by county governments in New York State (“the State”) and the City of New York (“the City”).

Letters have been received from the State Department of Health (DOH) by several counties and the City asserting that certain Medicaid expenditures should not be reported on their respective Schedule of Expenditures of Federal Awards (SEFAs). The letters and findings in the State’s recent Federal Single Audits imply that the counties, the City, and, ultimately, the taxpayers might not be receiving sufficient audit coverage for other Federal programs administered because fewer programs need to be selected and tested as major programs when the Medicaid payments made by the State to patient care service providers on behalf of the counties and the City are included on the SEFA.

NYS DOH might have based its view on a finding in the State's Single Audit for the fiscal year ended March 31, 2006 (a copy of which is appended for your information). Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," section 205(i) exempts reporting of expenditures on the SEFA for recipients of Medicaid funds from Federal or State sources where such funds are used to provide patient care services, unless the payments are required by the State to be included because the payments are on a cost reimbursement basis.

The A-133 requirement is clear that certain patient care service payments made by a state or directly by the Federal government are not Federal Awards and should not be included on the SEFA. However, in New York State, unlike other states, the Medicaid Management Plan identifies the county and city governments as the administrators of the Medicaid program. The State, in our case, is the centralized payer, but the payments and program eligibility are determined by the counties or the City.

Some of the members of our Committee believe that, because the State's Medicaid Management Plan places direct responsibility for the administration of the program on the counties and the City to determine eligibility and to administer the Medicaid program, OMB Circular A-133 requires these local governments to report the Federal share of funds paid directly by the State's MMIS to providers in the county or City's jurisdiction. Some of our Committee members have indicated that written guidance was received from your predecessor at HHS OIG, Mr. John Fisher, which requires that the counties and the City include the Federal share of the State's payments in their SEFAs even though those payments do not pass through the counties or the City directly.

We believe that further clarification from the U.S. Department of Health and Human Services, as the Federal agency overseeing the Medicaid program and the cognizant agency for the Federal Single Audit of New York State, would be helpful to our New York State CPA Society members performing Federal Single Audits, as well as to non-members and state and local agencies.

Please note that the NYSSCPA and its GA & A Committee take no position on this matter. We simply seek to clarify the requirements to assist our clients and fellow CPAs with compliance with the Federal Single Audit Act. We respectfully ask that your organization facilitate the broader understanding of the Federal Single Audit requirements by publicly stating an opinion on the proper interpretation of OMB Circular A-133 section 205(i).

If the NYSSCPA or its Government Accounting and Auditing Committee members can be of any assistance to you in this matter, please do not hesitate to contact me at 518-459-3188, Ext. 346 or Ernest J. Markezin on staff at the Society at 212-719-8303.

Thank you in advance for your insights on this matter.

Sincerely,



Thomas J. Goodfellow, CPA
Chair, NYSSCPA Governmental Accounting & Auditing
Committee

Attachment

cc: Robert F. Daines, MD, Commissioner, New York State Department of Health,
Corning Tower, Empire State Plaza, Albany, NY 12237

Robert W Reed, Deputy Commissioner for Administration, Division of Administration, New
York State Department of Health, Corning Tower, Empire State Plaza, Albany, NY 12237

David A. Lifson, President, NYSSCPA

Members of the NYSSCPA Government Accounting and Auditing Committee

STATE OF NEW YORK

Single Audit Report
March 31, 2006

Medical Assistance Program (93.778)

Department of Health

Reference: 06-40

Requirement

In accordance with OMB Circular A-133, a pass-through entity is responsible for ensuring required audits are performed within nine months of the end of the subrecipient's audit period. New York State Counties and the City of New York submit their OMB Circular A-133 reports to the Department. Those reports include the Schedule of Expenditures of Federal Awards.

Additionally, OMB Circular A-133, subpart B Section 205, states that Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost reimbursement basis.

Finding

In New York State, County governments are reimbursed for administration and other direct Medical Assistance program expenditures on a cost reimbursement basis. These funds are reimbursed to the County based on claims submitted. These cost reimbursements are Federal awards for reporting on the County's Schedule of Expenditures of Federal Awards.

Counties are also charged for their share of direct patient care services. Payments are made by the State directly to providers. The County pays the State a "weekly share" based upon State law. These payments, known as MMIS payments, are among the largest budgetary line items for each County. We noted that 10 of 57 Counties and the City of New York included these MMIS payments as Federal expenditures in the Data Collection Form for the year ended December 31, 2004. These significant MMIS costs have an effect on the determination of major programs, as the threshold required by OMB Circular A-133 is dependent upon the total amount of Federal awards expended.

Recommendation

We recommend that the Department notify the Counties and New York City that they should no longer report MMIS expenditures on the Schedule of Expenditures of Federal Awards. We also recommend that the Department assess the impact on the determination of major Federal programs in 2004 for New York City and those Counties that included the MMIS expenditures on the Schedule of Expenditures of Federal Awards.

(ATTACHMENT CONT.)

Related Noncompliance

Based on the above, the Department was not in compliance with the above requirement.

Questioned Costs

None

Views of Responsible Officials

Presented in the State Agency Corrective Action Plans attached as an appendix to the Single Audit Report.

**NEW YORK STATE CORRECTIVE ACTION PLAN
Single Audit of Federal Programs for
State Fiscal Year Ended March 31, 2006**

State Agency: New York State Department of Health

Single Audit Contact: Thomas E. Howe

Title: Director, Audit Unit

Telephone: (518) 473-3920

E-mail: teh02@health.state.ny.us

Federal Program(s) CFDA #(s): Medical Assistance Program (93.778)

Audit Report Reference: 06-40

I. Type of Finding: [Check one to identify the nature of the particular audit finding.]

Internal Control with related noncompliance []

Internal Control Only (no noncompliance cited) [X]

Other reportable noncompliance (Finding Only) []

Questioned Costs: None

II. Summary of Finding (including any Internal Control Recommendation(s), if applicable:

In New York State, County governments are reimbursed for administration and other direct Medical Assistance program expenditures on a cost reimbursement basis. These funds are reimbursed to the County based on claims submitted. These cost reimbursements are Federal awards for reporting on the County's Schedule of Expenditures of Federal Awards.

Counties are also charged for their share of direct patient care services. Payments are made by the State directly to providers. The County pays the State a "weekly share" based upon State law. These payments, known as MMIS payments, are among the largest budgetary line items for each County. We noted that 11 of 57 Counties and the City of New York included these MMIS payments as Federal expenditures in the Data Collection Form for the year ended December 31, 2004. These significant MMIS costs have an effect on the determination of major programs, as the threshold required by OMB Circular A-133 is dependent upon the total amount of Federal awards expended.

Recommendation:

We recommend that the Department notify the Counties and New York City that they should no longer report MMIS expenditures on the Schedule of Expenditures of Federal Awards. We also recommend that the Department assess the impact on the determination of major Federal programs in 2004 for New York City and those Counties that included the MMIS expenditures on the Schedule of Expenditures of Federal Awards.

III. Agency Response:

The Department will institute the recommendations related to this finding. We will notify all counties and New York City regarding the correct handling of MMIS expenditures in the Schedule of Expenditures of Federal Awards. We will assess the impact on the determination of major Federal programs for the counties that reported this number incorrectly for 2004 and 2005.