NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

February 1, 2016

Borbas Pharmacy, Inc.
2046 Bath Avenue
Brooklyn, New York 11214-4806

FINAL AUDIT REPORT
Audit #2015Z49-032W
Provider # [redacted]

Dear Provider:

The New York State Office of the Medicaid Inspector General (OMIG) completed an audit of Duplicate Durable Medical Equipment (DME) Claims.

In accordance with Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR), this report represents the final determination on issues found during the OMIG's review.

Your response to the OMIG's December 30, 2015 Draft Audit Report agreed with the audit findings. As a result, the overpayments in the Final Report remain unchanged to those cited in the Draft Report. The total Medicaid overpayment is $6,279.46, inclusive of interest.

Based on this determination, restitution of the overpayments as defined in 18 NYCRR 518.1 is required in the amount of $6,279.46, inclusive of interest.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described as follows:

OPTION #1: Make a full payment by check or money order within 20 days of the date of the final report. The check should be made payable to the New York State Department of Health and be sent with the enclosed Remittance Advice form, signed and dated, to:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
Albany, New York 12237

OPTION #2: Enter into a repayment agreement with the Office of the Medicaid Inspector General. If your repayment terms exceed 90 days from the date of the final audit report, recoveries of amounts due are subject to interest charges at the prime rate plus 2%. If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, the OMIG will impose a 50% withhold after 20 days until an agreement is established. OMIG acceptance of the repayment agreement is based on your repaying the Medicaid overpayment as agreed. The OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against any amount owed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days at the following:

Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

Do not submit claim voids or adjustments in response to this Final Report.

You have the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. In accordance with 18 NYCRR Section 519.18(a), "The issues and documentation considered at the hearing are limited to issues directly relating to the final determination. An appellant may not raise issues regarding the methodology used to determine any rate of payment or fee, nor raise any new matter not considered by the department upon submission of objections to a draft audit or notice of proposed agency action."

If you wish to request a hearing, the request must be submitted in writing to:

General Counsel
Division of Counsel
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

If a hearing is held, you may have a person represent you or you may represent yourself. If you choose to be represented by someone other than an attorney, you must supply along with your hearing request a signed authorization permitting that person to represent you. At the hearing, you may call witnesses and present documentary evidence on your behalf.

Questions concerning this audit may be directed to [redacted] at [redacted].

Sincerely,

[redacted]
Office of the Medicaid Inspector General

Enclosure

CERTIFIED MAIL # [redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Borbas Pharmacy, Inc.
2046 Bath Avenue
Brooklyn, New York 11214-4806

Provider # [redacted]

AUDIT #2015Z49-032W

AUDIT TYPE	[X] PROVIDER
	[ ] RATE
	[ ] PART B
	[ ] OTHER:

AMOUNT DUE: $ 6,279.46

CHECKLIST

1. To ensure proper credit, please enclose this form with your check.

2. Make checks payable to: *New York State Department of Health*

3. Record the Audit Number on your check.

4. Mail check to:

[redacted]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #2015Z49-032W
Albany, New York 12237

5. If the provider number shown above is incorrect, please enter the correct number below.

CORRECT PROVIDER NUMBER

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

ANDREW M. CUOMO
GOVERNOR

DENNIS ROSEN
MEDICAID INSPECTOR GENERAL

FINAL REPORT

BORBAS PHARMACY, INC.
2046 BATH AVENUE
BROOKLYN, NEW YORK 11214-4806

DUPLICATE DURABLE MEDICAL EQUIPMENT CLAIMS
#2015Z49-032W

ISSUED FEBRUARY 1, 2016

BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (DOH) is responsible for the administration of the Medicaid program. As an independent office within DOH, the OMIG conducts audits and reviews of providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at assuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in NY Public Health Law, NY Social Services Law, regulations of the Department of Health, (Titles 10 and 18 of the NYCRR), Medicaid Provider Manuals, and *Medicaid Update* publications.

A review of Medicaid payments made to you has determined that you billed duplicate Durable Medical Equipment (DME) claims to Medicaid for the same recipient on the same date of service.

To accomplish this review, claims for services with service dates from January 1, 2010 through September 30, 2015, were reviewed.

Please note that due to the implementation of the National Provider Identifier (NPI) on September 1, 2008, there may be multiple Provider Identification Numbers associated with the Primary Provider Identification Number. The NPI is linked to the Primary Provider Identification Number. The Primary Provider Identification Number is used for correspondence and recoupment.

DETAILED FINDING

OMIG completed its audit of duplicate Durable Medical Equipment (DME) claims for dates of service included in the period beginning January 1, 2010 and ending September 30, 2015.

1. Duplicate Durable Medical Equipment (DME) Claims Billed for the Same Recipient and Date of Service

Regulations state: "By enrolling the provider agrees: (h) that the information provided in relation to any claim for payment shall be true, accurate, and complete; and (i) to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3

Regulations state: "Fee-for-service providers. (1) All providers ... must prepare and maintain contemporaneous records demonstrating their right to receive payment. . . All records necessary to disclose the nature and extent of services furnished and the medical necessity therefor ... must be kept by the provider for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later. (2) All information regarding claims for payment submitted by or on behalf of the provider is subject to audit for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later, and must be furnished upon request, to the department ... for audit and review."

18 NYCRR Section 517.3(b)

Regulations state: "An overpayment includes any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse or mistake."

18 NYCRR Section 518.1(c)

Regulations state: "The department may require repayment from the person submitting an incorrect or improper claim, or the person causing such claim to be submitted, or the person receiving payment for the claim."

18 NYCRR Section 518.3(a)

Regulations state: "The department may require repayment for inappropriate, improper, unnecessary or excessive care, services or supplies from the person furnishing them, or the person under whose supervision they were furnished, or the person causing them to be furnished.

18 NYCRR Section 518.3(b)

Regulations state: "Persons furnishing, or supervising the furnishing of, medical care, services or supplies are jointly and severely liable for any overpayments resulting from the furnishing of the care, services or supplies."

18 NYCRR Section 518.3(c)

Regulations state: "Where a third party, such as a health insurer or responsible person, has a legal liability to pay for Medicaid covered services on behalf of a recipient, the department or social services district will pay only the amount by which the Medicaid reimbursement rate for the services exceeds the amount of the third party liability."

18 NYCRR Section 360-7.2

Regulations state: "Vendor payments for medical care and other items of medical assistance shall not be made unless such care or other items of assistance have been furnished on the basis of the appropriate authorization prescribed by the rules of the board and regulations of the department."

18 NYCRR Section 540.1

As a result of this finding, OMIG has determined that $5,423.85 (Attachment 1) was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

DETERMINATION

In accordance with 18 NYCRR §518.4, interest may be collected on any overpayments identified in this audit and will accrue at the current rate from the date of the overpayment. The OMIG has determined that accrued interest for the overpayments identified in this audit total $855.61.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR Section 518.1(c), is $6,279.46 (Attachment1), inclusive of interest.

Do not submit claim voids or adjustments in response to this Final Audit Report.