



STATE OF NEW YORK  
OFFICE OF THE MEDICAID INSPECTOR GENERAL  
584 Delaware Avenue  
Buffalo, New York 14202

ANDREW M. CUOMO  
GOVERNOR

JAMES C. COX  
MEDICAID INSPECTOR GENERAL

July 16, 2014

Shore Drugs, Inc.

[REDACTED]  
30 E. Main Street  
Bay Shore, NY 11706

Final Audit Report

Audit #11-6086  
Provider ID [REDACTED]

Dear [REDACTED]

This letter will serve as our final audit report of the recently completed review of payments made to Shore Drugs, Inc. under the New York State Medicaid Program. Since you did not respond to our draft audit report dated April 28, 2014, the findings in the final audit report are identical to those in the draft audit report.

The New York State Department of Health is responsible for the administration of the Medicaid program. As part of this responsibility, the Office of the Medicaid Inspector General (OMIG) conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at assessing provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth by the Departments of Health and Education [Titles 8, 10, and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (8 NYCRR, 10 NYCRR, 18 NYCRR)] and the Medicaid Management Information System (MMIS) Provider Manuals.

Pharmacy is a professional practice, which includes a number of activities that are necessary for the provision of drugs for patients as ordered by persons authorized under State law to prescribe drugs. Pharmacies, which are licensed and currently registered by the New York State Board of Pharmacy, Department of Education, may dispense drugs and other medical/surgical supplies. The pharmacy must comply with all applicable provisions of State Law including Article 137 of the Education Law, Articles 1 and 33 of the Public Health Law, and the Pharmacy Guide to Practice (Pharmacy Handbook) issued by the Department of Education. The specific standards and criteria for pharmacies are outlined in Title 10 NYCRR Parts 80 and 85.20-22 and Title 18 NYCRR Section 505.3. The MMIS Provider Manual for Pharmacy also provides program guidance for claiming Medicaid reimbursement for pharmacy services.

A review of payments to Shore Drugs, Inc. for pharmacy services paid by Medicaid for Suffolk County recipients from January 1, 2008 through December 31, 2010, was recently completed. During the audit period, \$3,982,906.73 was paid for 37,925 services rendered. This review consisted of a random sample of 200 services with Medicaid payments of \$19,405.28. The purpose of this audit was to verify that: prescriptions were properly ordered by a qualified practitioner; the pharmacy had sufficient documentation to substantiate billed services; appropriate formulary codes were billed; patient related records contained the documentation required by the regulations; and claims for payment were submitted in accordance with New York State laws, Department regulations and the Provider Manuals for Pharmacy.

Shore Drugs, Inc.'s failure to comply with Titles 8, 10, and/or 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), the MMIS Provider Manual for Pharmacy, and the Pharmacy Guide to Practice resulted in a total sample overpayment of \$2,955.20.

This audit may be settled through repayment of the total sample overpayment amount of \$2,955.20 (Exhibit I).

The following detailed findings reflect the results of our audit. This audit report incorporates consideration of any additional documentation and information presented in response to the draft audit report dated April 28, 2014. Since you did not respond to the draft audit report, the findings remain the same.

### **DETAILED FINDINGS**

In addition to any specific detailed findings, rules and/or regulations which may be listed below, the following regulations pertain to all audits:

Regulations state: "By enrolling the provider agrees: (a) to prepare and to maintain contemporaneous records demonstrating its right to receive payment . . . and to keep for a period of six years from the date the care, services or supplies were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider . . . (e) to submit claims for payment only for services actually furnished and which were medically necessary or otherwise authorized under the Social Services Law when furnished and which were provided to eligible persons; (f) to submit claims on officially authorized claim forms in the manner specified by the department in conformance with the standards and procedures for claims submission; . . . (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 Section 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 require that bills for medical care, services and supplies contain patient name, case number and date of service; itemization of the volume and specific types of care, services and supplies provided; the unit price and total cost of the care, services and supplies provided; and a dated certification by the provider that the care, services and supplies itemized have been in fact furnished; that the amounts listed are in fact due and owing; that such records as are necessary to disclose fully

the extent of care, services and supplies provided to individuals under the New York State Medicaid program will be kept for a period of not less than six years from the date of payment; and that the provider understands that payment and satisfaction of this claim will be from Federal, State and local public funds and that he or she may be prosecuted under applicable Federal and State laws for any false claims, statements or documents, or concealment of a material fact provided.

*18 NYCRR Section 540.7(a)(1)-(3) and (8)*

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: "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*

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: "Medical care, services or supplies ordered or prescribed will be considered excessive or not medically necessary unless the medical basis and specific need for them are fully and properly documented in the client's medical record."

*18 NYCRR Section 518.3(b)*

## **1. Ordering Prescriber Conflicts with Claim Prescriber**

Regulations state: "By enrolling the provider agrees...to submit claims on officially authorized claim forms in the manner specified by the department in conformance with the standards and procedures for claims submission" and "that the information provided in relation to any claim for payment shall be true, accurate and complete."

*18 NYCRR Sections 504.3(f) and (h)*

Medicaid policy requires the billing provider to enter the Medicaid ID Number of the ordering/prescribing provider or, if the ordering prescriber is not enrolled in the Medicaid Program, to enter his/her license number. The supervising MD's MMIS or license number should be entered for an unlicensed intern or resident for a prescription from a facility, and the facility's Medicaid ID number may be entered **only** when the prescriber's or supervising physician's Medicaid ID or License number is unavailable. When prescriptions have been written by a Physician's Assistant, the supervising physician's Medicaid ID number or license number should be entered. [There is no provision here for entering facility MMIS ID number in absence of the supervising MD number for a prescription written by a Physician's Assistant.] If the prescribing provider is a Nurse Practitioner certified to write prescriptions, enter his/her Medicaid ID number or license number in this field. **Note: If the Medicaid ID or State License number of an authorized prescriber is not on the prescription, it is the pharmacist's responsibility to obtain it.**

In addition, if a license number is indicated, the Profession Code that identifies the ordering/prescribing provider's profession must be entered. Directions are given to obtain profession codes.

*NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2005-1, Section II*  
*NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2007-1, Section II*  
*NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2008-1, Section II*

Medicaid policy requires the billing provider to enter the Medicaid ID Number **or** the NPI of the ordering/prescribing provider. If the NPI is not known and the orderer/prescriber is not enrolled in the Medicaid program, enter his/her License number. If a license number is indicated, the Profession Code that identifies the ordering/prescribing provider's profession must be entered. For orders originating in a hospital, clinic, or other health care facility, the following rules apply: When a prescription is written by an unlicensed intern or resident, the supervising physician's Medicaid ID number, NPI or license number should be entered in this field. When prescriptions have been written by a Physician's Assistant, the supervising physician's Medicaid ID number, NPI or license number should be entered in this field. Certified Nurse Practitioners with licenses that contain six digits not preceded by the letter F can only write fiscal orders. If the prescribing provider is a Nurse Practitioner certified to write prescriptions, enter his/her Medicaid ID number, NPI or license number in this field. **Note: If the Medicaid ID, NPI or State License number of an authorized prescriber is not on the prescription, it is the pharmacist's responsibility to obtain it.**

*NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2008-2, Section II*  
*NYS Medicaid program Pharmacy Manual Billing Guidelines Version 2008-3, Section II*

Medicaid policy requires the billing provider to enter the NPI of the ordering/prescribing provider. For orders originating in a hospital, clinic, or other health care facility, the following rules apply: When a prescription is written by an unlicensed intern or resident, the supervising physician's NPI should be entered in this field. When prescriptions have been written by a Physician's Assistant, the supervising physician's NPI should be entered in this field. If the prescribing provider is a Nurse Practitioner certified to write prescriptions, enter his/her NPI in this field. **Note: If the NPI of an authorized prescriber is not on the prescription, it is the pharmacist's responsibility to obtain it.**

*NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2009-1, Section II*  
*NYS Electronic Medicaid System eMedNY 000301 Billing Guidelines Pharmacy*  
*Version 2010-01, Section 2.4.1*

The Medicaid Updates provide direction on identifying the ordering prescriber on the Medicaid claim.

*DOH Medicaid Update March 2004*  
*DOH Medicaid Update October 2004*  
*DOH Medicaid Update September 2005*

The Medicaid Update identifies the State Education Department's (SED) website to obtain or verify prescriber license numbers.

*DOH Medicaid Update March 2000*

The Medicaid Update states that it is inappropriate to use a facility's Medicaid identification number as the ordering/referring/prescribing provider.

*DOH Medicaid Update January 2008*

In 7 instances pertaining to 7 patients, the ordering prescriber conflicts with the claim prescriber. This resulted in a sample overpayment of \$2,955.20 (Exhibit II).

Total sample overpayments for this audit amounted to \$2,955.20.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below. If you decide to repay the total sample overpayment amount of \$2,955.20, one of the following repayment options must be selected within 20 days from the date of this letter:

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

[REDACTED]  
New York State Department of Health  
Medicaid Financial Management, B.A.M.  
GNARESP Corning Tower, Room 2739  
Albany, New York 12237-0048

**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 the 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

If you choose not to settle this audit through repayment of the total sample overpayment, you have the right to challenge these findings by requesting an administrative hearing. As allowed by state regulations, you must make your request for a hearing, in writing, within sixty (60) days of the date of this report to:

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

Questions regarding the request for a hearing should be directed to Office of Counsel at [REDACTED]

Issues you may raise shall be limited to those issues relating to determinations contained in the final audit report. Your hearing request may not address issues regarding the methodology used to determine the rate, or any issue that was raised at a proceeding to appeal a rate determination.

At the hearing you have the right to:

- a) be represented by an attorney or other representative, or to represent yourself;
- b) present witnesses and written and/or oral evidence to explain why the action taken is wrong; and
- c) cross examine witnesses of the Department of Health and/or the OMIG.

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid Program, take action where appropriate, and recover monies owed through the initiation of a civil lawsuit or other legal mechanisms including but not limited to the recovery of state tax refunds pursuant to Section 206 of the Public Health Law and Section 171-f of the State Tax Law.

Should you have any questions, please contact [REDACTED]

Thank you for the cooperation and courtesy extended to our staff during this audit.

Sincerely,

[REDACTED]  
Division of Medicaid Audit, Buffalo  
Office of the Medicaid Inspector General

[REDACTED]  
Enclosure

xc. [REDACTED]

CERTIFIED MAIL [REDACTED]  
RETURN RECEIPT REQUESTED

**NEW YORK STATE  
OFFICE OF THE MEDICAID INSPECTOR GENERAL  
REMITTANCE ADVICE**

SHORE DRUGS, INC.  
[REDACTED]

30 E. MAIN STREET  
BAY SHORE, NY 11706

AMOUNT DUE: \$2,955.20

PROVIDER ID [REDACTED]

AUDIT #11-6086

AUDIT	<input checked="" type="checkbox"/>	PROVIDER
	<input type="checkbox"/>	RATE
	<input type="checkbox"/>	PART B
TYPE	<input type="checkbox"/>	OTHER:

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, B.A.M.  
GNARESP Corning Tower, Room 2739  
File #11-6086  
Albany, New York 12237-0048

Thank you for your cooperation.

**SHORE DRUGS INC**  
**PHARMACY SERVICES AUDIT**  
Audit #: 11-6086  
Audit Period: 1/1/2008 to 12/31/2010  
**SUMMARY OF FINDINGS**

<b>Finding Description</b>	<b>Total Cases with Error</b>	<b>Total Services with Error</b>	<b>Total \$ Disallowance</b>	<b>Exhibit</b>
Ordering Prescriber Conflicts with Claim Prescriber	7	7	\$2,955.20	11
		<u>7</u>	<u>\$2,955.20</u>	

## SHORE DRUGS INC

MMIS #: [REDACTED]

Audit #: 11-6086

## Ordering Prescriber Conflicts with Claim Prescriber

Sample #	Date of Service	Formulary Code	Amount Disallowed
37	5/13/2008	00078052687	\$2,863.60
45	7/31/2009	00603471521	\$27.94
68	10/13/2008	00143148010	\$6.38
79	10/5/2009	60505130901	\$6.08
144	4/26/2010	50111099001	\$20.98
161	10/29/2009	59762153001	\$6.10
199	12/1/2009	63304097004	\$24.12
<b>Total Services:</b>	<u>7</u>		<u>\$2,955.20</u>