



Office of the
Medicaid Inspector
General

THOMAS R. MEYER
Acting Medicaid Inspector General

Audit of Claims for Emergency Services Provided to Non-U.S. Citizens

**Final Audit Report
Audit #: 13-4407**

Coler-Goldwater Memorial Hospital

Provider ID #: [REDACTED]



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

THOMAS R. MEYER
Acting Medicaid Inspector General

March 4, 2015

[REDACTED]
NYC-HHC
Coler-Goldwater Memorial Hospital
160 Water Street, Room 736
New York, New York 10038

Re: Final Audit Report
Audit #: 13-4407
Provider ID #: [REDACTED]

Dear [REDACTED]:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Coler-Goldwater Memorial Hospital (Provider).

In accordance with Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York Section 517.6, the attached Final Audit Report represents the final determination on the issues found during OMIG's audit.

After reviewing the Provider's January 29, 2015 response to OMIG's December 4, 2014 Draft Audit Report, the overpayments in the Final Audit Report remain unchanged to those overpayments identified in the Draft Audit Report. Based on this determination, the total amount due is \$1,508,752.86. A detailed explanation can be found in the Audit Findings section.

If you have any questions or comments concerning this report, please contact [REDACTED] at [REDACTED] or through email at [REDACTED]. Please refer to audit number 13-4407 in all correspondence.

Sincerely,

[REDACTED]

Division of Medicaid Audit, Albany Office
Office of the Medicaid Inspector General

Attachments
Certified Mail # [REDACTED]
Return Receipt Requested

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Background, Objective, and Audit Scope

Background

The New York State Department of Health (DOH) is the single state agency responsible for the administration of the Medicaid program. As part of its responsibility as an independent entity within DOH, 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 in New York Public Health Law, New York Social Services Law, the regulations of DOH (Titles 10 and 18 of the New York Codes Rules and Regulations), the regulations of the Office of Mental Hygiene (Title 14 of the New York Codes Rules and Regulations), DOH's Medicaid Provider Manuals and *Medicaid Update* publications.

Medicaid reimbursement in New York State is available to non-U.S. citizens for care and services in order to treat an emergency medical condition as set forth in New York State Regulations 18 NYCRR Section 360-3.2 (j)(iii) and Federal Regulation 42 U.S.C. Section 1396(b)(v)(3) whereas; emergency medical condition is defined as a medical condition (including emergency labor and delivery) manifested itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate attention could reasonably be expected to result in: (A) Placing the patient's health in serious jeopardy; (B) Serious impairment to bodily functions; and (C) Serious dysfunction of any bodily organ or part.

Not all services that are medically necessary meet the State and Federal definition of an emergency medical condition for Medicaid reimbursement of services provided to a non-U.S. citizen. Emergency medical conditions do not include debilitating conditions (e.g., heart disease or other medical conditions requiring rehabilitation) that result from the initial event and that later require ongoing regimented care.

Such debilitating conditions cannot be considered to be emergency in nature simply because the absence of medically necessary ongoing care would have serious health consequences for the individual. Additionally, emergency medical condition by definition is unexpected with sudden onset that requires immediate medical treatment. Medicaid coverage for the treatment of an emergency medical condition begins on the first day treatment for the emergency was initiated and ends when the acute symptoms are no longer placing the patient's health in immediate danger.

Skilled nursing care provided to chronically ill but clinically stable persons is beyond the intent of the Federal and State law and are not considered "emergency services" for the purpose of payment by Medicaid.

Objective

The objective of this audit was to assess the Provider's adherence to applicable laws, regulations, rules, and policies governing the New York State Medicaid program and to verify that:

- the Provider appropriately claimed for emergency services provided to non-U.S. citizens in accordance with Federal and State laws, regulations, rules and policies governing the New York State Medicaid Program;
- claims for payment were submitted in accordance with applicable rules and requirements.

Audit Scope

An audit of emergency services provided to non-U.S. citizens paid by Medicaid from January 1, 2011 through July 10, 2013, was completed. During the audit period, \$14,911,421.21 was paid for 539 claims with 20,539 dates of service (DOS) rendered to 175 patients. This review consisted of a judgmental sample of 67 claims with 2,124 DOS rendered to 5 recipients with Medicaid payments of \$1,613,585.79

Audit Findings

OMIG issued a Draft Audit Report to the Provider on December 4, 2014 that identified \$1,508,752.86 in Medicaid overpayments. The Provider's January 29, 2015 response (Attachment III) to the Draft Audit Report disputed the findings. After reviewing the Provider's response to the Draft Audit Report, the overpayments identified (Attachment I) in this Final Audit Report remain unchanged from those cited in the Draft Audit Report.

OMIG identified the following findings:

1. **Medical Record Does Not Support an "Emergency Medical Condition" on the Date of Service**

Medicaid payment is available for care and services provided to non-U.S. citizens in order to treat an emergency medical condition as set forth in New York State Regulations 18 NYCRR Section 360-3.2 (j)(iii) and Federal Regulation 42 U.S.C. Section 1396 (b)(v)(3).

This definition in the code must be met at the time the medical service is provided, or it is not considered to be an emergency medical condition. Not all services that are medically necessary meet the State and Federal definition of an emergency medical condition. Emergency medical conditions do not include debilitating conditions (e.g., heart disease or other medical conditions requiring rehabilitation) that result from the initial event and that later require ongoing regimented care. Such debilitating conditions cannot be considered to be emergency in nature simply because the absence of medically necessary ongoing care would have serious health consequences for the individual. Additionally, emergency medical condition by definition is unexpected with sudden onset that requires immediate medical treatment. Medicaid coverage for the treatment of an emergency medical condition begins on the first day treatment for the emergency was initiated and ends when the acute symptoms are no longer placing the patient's health in immediate danger.

Regulations state: "emergency medical condition" is defined as a medical condition (including emergency labor and delivery) manifested itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- 1-Placing the patient's health in serious jeopardy;
- 2- Serious impairment to bodily functions; or
- 3- Serious dysfunction of any bodily organ or part.

*18 NYCRR Section 360-3.2 (j)(iii)
42 U.S.C. Section 1396(b)(v)(3)*

Regulations also state: "Authentication of medical records, record entries and medical orders. Upon completion of ordering or providing or evaluating patient care services, each such action shall be recorded and promptly entered in the patient medical record. All entries shall be legible and complete and shall be authenticated by the person entering, ordering or completing such action. Legible and signed facsimile orders may be accepted and shall be filed in the patient medical records".

10 NYCRR Section 405.10(c)(1)

As a result of this finding, OMIG has determined that \$1,508,752.86 (Attachment I) was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

2. "Certification of Treatment of an Emergency Medical Condition" Form (DOH 4471 or MAP 2151) was Missing, Incomplete or Lacked the Signature of the Recipient/Authorized Representative

For the audit review period, New York State required providers to submit either the DOH 4471 or MAP 2151 form for treatment of emergency services provided to non-U.S. citizens to the Local Department of Social Services. The State required that the forms were complete including the name, client identification number, date of birth, address, city, state and zip code. Additionally the treating physician must fill in the diagnosis, describe the treatment provided and indicate the date(s) of treatment and/or hospital stay. Furthermore, only the treating physician may sign the physician's certification. In all cases, the treating physician must decide whether the medical treatment is for an emergency medical condition as described 42 U.S.C.1396(b)(v)(3) and check the appropriated box indicating whether the treatment provided meets or does not meet this definition. The treating physician must sign, date and print his/her full name and license number in the space provided. Finally, the recipient/authorized representative must sign the form to allow release of medical information to determine eligibility for Medical Assistance for treatment of an emergency condition.

Medicaid policy states: "Form DOH-4471 "Certification of Treatment of an Emergency Medical Condition" has now replaced the Upstate form LDSS-3955 and New York City Medical Assistance Program (MAP) form MAP-2151.... The maximum period of time that can be entered on a single DOH-4471 form is 90-days. This can be a combination of retroactive, current, and prospective coverage. Temporary nonimmigrants and undocumented aliens

applying for coverage for treatment of an emergency medical condition are required to file a Medicaid application and *must* sign the DOH-4471, "Authorization to Release Medical Information" section on page 2. If the individual is unable to sign the certification form, the individual's authorized representative may sign on his/her behalf. The form is not valid without the required signature.

- Signing the form authorizes the LDSS to request information regarding the emergency medical treatment. It also gives the physician or facility permission to provide such information.
- A physician must, in all cases, make the decision as to whether or not the medical treatment is for an emergency medical condition."

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Medicaid policy states: "The treating physician must complete, date, sign and submit the DSS-3955 or MAP-2151 form for any undocumented or temporary non-immigrant who has received and is applying for Medicaid coverage for the treatment of an emergency medical condition.

A **new** DSS-3955 or MAP-2151 must be obtained from the treating physician for **each** new episode requiring treatment of an emergency medical condition. An individual may reapply whenever he or she needs treatment of an acute emergency medical condition and the treating physician provides a **new** DSS-3955 or MAP-2151."

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Effective February 25, 2013, changes were made to the Medicaid coverage for treatment of an emergency condition. Although treating physicians are no longer required to complete these forms, the physician must continue to authorize that the treatment being billed is for an emergency medical condition on the electronic claim submitted through eMedNY.

As a result of this finding along with the DOH's certification forms requirement changes, the OMIG has determined only corrective action is necessary with no monetary disallowance (Attachment II).

Pursuant to 18 NYCRR Parts 517 and 518, OMIG on the behalf of DOH, may recover such overpayments. Based on this determination, the total amount due to DOH, as defined in 18 NYCRR Section 518.1, is \$1,508,752.86 (Attachment I).

Repayment Options

In accordance with 18 NYCRR Part 518, which regulates the collection of overpayments, your repayment options are described below.

Option #1: Make a full payment by check or money order within 20 days of the date of this Final Audit Report. The check should be made payable to the **New York State Department of Health** with the audit number included, 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 12237-0016

Option #2: Enter into a repayment agreement with OMIG. If your repayment terms exceed 90 days from the date of this Final Audit Report, recoveries of amounts due are subject to interest charges at the Prime Rate plus two percent (2%). If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, 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. 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 New York 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:

New York State
Office of the Medicaid Inspector General
Bureau of Collections Management
800 North Pearl Street
Albany, New York 12204
Phone #: [REDACTED]
Fax #: [REDACTED]

Hearing Rights

The Provider has the right to challenge this action and determination by requesting an administrative hearing within 60 days of the date of this notice. In accordance with 18 NYCRR 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 the Provider wishes to request a hearing, the request must be submitted in writing within 60 days of the date of this notice to:

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

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

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;
- c) Cross examine witnesses of DOH and/or OMIG; and
- d) Have an interpreter if you do not speak English or are deaf.

Contact Information



Office Address:

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

Mission

The mission of the Office of the Medicaid Inspector General is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high quality patient care.

Vision

To be the national leader in promoting and protecting the integrity of the Medicaid program.



Office of the
Medicaid Inspector
General

REMITTANCE ADVICE

Coler-Goldwater Memorial Hospital
160 Water Street, Room 736
New York, New York 10038

Provider ID #: [REDACTED]

Audit #: 13-4407

Amount Due: \$1,508,752.86

Audit
Type

- Managed Care
 Fee-for-Service
 Rate

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 the check to:

[REDACTED]
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
File #13-4407
Albany, New York 12237-0016