NEW YORK STATE
DEPARTMENT OF HEALTH
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF ROLAND NYEIN, M.D., P.C.
FAMILY PLANNING CHARGEBACK TO NETWORK PROVIDERS
JANUARY 1, 2010 THROUGH SEPTEMBER 30, 2011

FINAL AUDIT REPORT
AUDIT # 14-6852

Thomas R. Meyer
Acting Medicaid Inspector General

March 3, 2015

NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

THOMAS R. MEYER
Acting Medicaid Inspector General

March 3, 2015

Roland Nyein, M.D., P.C.
68 Bayard Street
New York, New York 10013-4941

Re: Final Audit Report
Audit #14-6852
Provider #[redacted]

Dear Dr. Nyein:

The New York State Office of the Medicaid Inspector General (OMIG) performed an audit of Medicaid payments for family planning and reproductive health services paid to Roland Nyein, M.D., P.C. (Provider), on behalf of Medicaid beneficiaries while they were enrolled in Health Plus (Plan). In accordance with Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 517.6, this Final Audit Report represents the final determination on the issues found during the OMIG's review.

BACKGROUND

The New York State Department of Health (the Department) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an entity within the Department, the 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 New York Public Health Law, New York Social Services Law, the regulations of the Department of Health (Titles 10 and 18 of the NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR), the Department of Health's Medicaid Provider Manuals, *Medicaid Update* publications and the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

Federal Medicaid law prohibits any restrictions to access by Medicaid recipients for family planning services. Accordingly, the Department requires that all participating managed care organizations (MCO) ensure individuals of childbearing age have access to the full range of family planning and reproductive health services from any qualified provider that undertakes to provide such services.

Pursuant to the Contract Appendix C, if the MCO chooses to receive a monthly capitation payment for covered services which includes family planning and reproductive services, the MCO is subsequently responsible to reimburse its network providers for these services provided to the MCO's Medicaid enrollees. Under these circumstances, the participating network provider is required to bill the MCO with whom the Provider has signed a network contract. This is also in accordance with 18 NYCRR 540.6(e) which explains the servicing provider's responsibility to ascertain the legal liability of third parties to pay for medical care and services.

PURPOSE AND SCOPE

The purpose of this audit was to ensure that the Provider was in compliance with 18 NYCRR 540.6(e) and the Contract Appendix C, and to identify Medicaid payments associated with family planning and reproductive health services that should not have been billed fee-for-service by the Provider, but rather reimbursed to the Provider by the Plan. The review period includes dates of service from January 1, 2010 through September 30, 2011.

FINDINGS

During the course of the OMIG's family planning and reproductive health services claim review with the Plan, the OMIG received contractual documents from the Plan that verified the Provider had a participating provider agreement with the Plan to provide services to their enrollees between January 1, 2010 and September 30, 2011 (Attachment I). As a result of this contractual arrangement, the Plan is responsible for reimbursing the Provider for the family planning and reproductive health services provided to the Plan's enrollees during this time period. The Provider should have billed the Plan, not Medicaid.

The Final Audit Report found that the Provider inappropriately billed Medicaid $4,220.10 for family planning and reproductive health services that were rendered to the Plan's enrollees between January 1, 2010 and September 30, 2011; a period the Provider had a participating provider contractual agreement with the Plan. As a result, 18 NYCRR 540.6(e) requirements were not met. In the February 9, 2015 response to the Draft Audit Report (Attachment II), the Provider confirmed the findings of the Draft Audit Report. As a result, the findings of the Final Audit Report remain unchanged from those cited in the Draft Audit Report.

In accordance with 18 NYCRR 518.4, interest may be collected and will accrue at the current rate from the date of the overpayment. For the overpayments identified in Attachment III, the OMIG has determined that accrued interest of $603.79 is owed.

Based on this determination, the total amount of overpayment listed on Attachment III, as defined in 18 NYCRR 518.1(c) is $4,823.89, inclusive of interest. Repayment of $4,823.89 is due the New York State Department of Health.

EFFECTIVE DATE

The OMIG, on behalf of the Department, is seeking to recover the amount due of $4,823.89 from the Provider, effective 20 days from the date of this Final Audit Report.

PAYMENT 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 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
File #14-6852
Albany, New York 12237-0016

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
Phone #: [redacted]
Fax#: [redacted]

PROVIDER RIGHTS

The Provider has 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 the Provider wishes 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

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

If a hearing is held, the Provider may have a person represent the Provider or the Provider may represent itself. If the Provider chooses to be represented by someone other than an attorney, the Provider must supply, along with the Provider's hearing request, a signed authorization permitting that person to represent the Provider at the hearing; the Provider may call witnesses and present documentary evidence on the Provider's behalf.

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid program, take action where appropriate, and recover any associated overpayments. If you have any questions regarding the above, or to acquire the disk password, please contact [redacted] at [redacted] or by email at [redacted] Thank you for your cooperation.

Sincerely,

[redacted]

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

Attachments
CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Roland Nyein, M.D., P.C.
68 Bayard Street
New York, New York 10013-4941

PROVIDER # [redacted]

AUDIT # 14-6852

PROVIDER TYPE

- ☒ Fee For Service
- ☐ Rate - LTC
- ☐ Rate - NH
- ☐ Managed Care
- ☐ Other

AMOUNT DUE: $4,823.89

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 #14-6852
Albany, New York 12237-0016

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

Thank you for your cooperation.