NEW YORK STATE | Office of the Medicaid Inspector General

DENNIS ROSEN
Medicaid Inspector General

Audit of Encounter Data for Reported Payments Made to Participating and Non-Participating Providers that were Excluded for Dates of Service April 1, 2015 through March 31, 2017

Final Audit Report
Audit #: 2020Z80-015J

Fidelis Care

Plan ID #: 04004486

NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

June 29, 2020

[redacted]
Fidelis Care
95-25 Queens Boulevard
Rego Park, New York 11374-4509

Final Audit Report
Audit #: 2020Z80-015J
Plan ID #: 04004486

Dear [redacted]:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Fidelis Care (Plan).

In accordance with Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York Section 517.5 and the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Contract (Contract), OMIG performed an audit of encounter data for reported payments made to participating and non-participating providers that were excluded for dates of service beginning April 1, 2015 and ending March 31, 2017.

The Plan's March 16, 2020 response to OMIG's February 25, 2020 Draft Audit Report stated that the Plan is in agreement with the Draft Audit Report findings. As a result, the overpayments identified in this Final Audit Report remain unchanged from those cited in the Draft Audit Report. The total amount due is $339.96.

OMIG has attached the exhibit of paid claims identified as overpayments. Please email [redacted] if you have any questions or comments concerning this report. Please refer to audit number 2020Z80-015J in all correspondence.

Sincerely,

[redacted]
System Match and Recovery
Division of Systems Utilization and Review
Office of the Medicaid Inspector General

CC: [redacted]

Attachment

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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 various audits and reviews of Medicaid providers which 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 Department of Mental Hygiene (Title 14 of the New York Codes, Rules and Regulations), DOH's Medicaid Provider Manuals, *Medicaid Update* publications, and the Contract.

Objective

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

- recover the Plan's reported payments made to excluded participating and non-participating providers.

Audit Scope

An audit of encounter data with dates of service in the period beginning April 1, 2015 and ending March 31, 2017 to determine if participating and/or non-participating providers excluded from participation with the New York State Medicaid Program were permitted by the Plan to participate in any activity related to furnishing medical care, services, or supplies for which costs were reported to the State, was completed.

Audit Findings

OMIG issued a Draft Audit Report to the Plan on February 25, 2020 that identified $339.96 in Medicaid overpayments. The Plan's March 16, 2020 response to the Draft Audit Report stated that the Plan is in agreement with the Draft Audit Report findings. As a result, the overpayments identified in this Final Audit Report remain unchanged from those cited in the Draft Audit Report.

OMIG has identified the following findings:

1. **Plan Reported Payments Made to Participating and Non-Participating Providers that Were Excluded**

   Regulations state, "A person who is excluded from the program cannot be involved in any activity relating to furnishing medical care, services or supplies to recipients of medical assistance for which claims are submitted to the program or relating to claiming or receiving payment for medical care, services or supplies during the period."

   18 NYCRR § 515.5(c)

   Regulations state, "Providers reimbursed on a cost-related basis may not claim as allowable costs any amounts paid or credited to any person who is excluded from the program or who is in violation of any condition of participation in the program."

   18 NYCRR § 515.5(d)

   Contract states, "Pursuant to 42 CFR 455.436 and 42 CFR 438.610, the Contractor shall confirm the identity and determine the exclusion status of new Participating Providers, re-enrolled Participating Providers and all current Participating Providers, any subcontractors, and any person with an ownership or control interest or who is an agent or managing employee of the Participating Provider or subcontractor through routine checks of Federal and State databases…"

   Contract Section 18.9(c)(i)

   Contract states, "Pursuant to 42 CFR 455.436 and 42 CFR 438.610, the Contractor shall confirm the identity and determine the exclusion status of Non-Participating Providers, upon or no later than 30 days of payment of first claim through routine checks of Federal and State databases…"

   Contract Section 18.9(c)(ii)

   Contract states, "If SDOH excludes or terminates a provider from its Medicaid program, the Contractor shall, upon learning of such exclusion or termination, immediately terminate the Provider Agreement with the Participating Provider with respect to the Contractor's MMC and/or FHPlus product, and agrees to no longer utilize the services of the subject provider, as applicable…"

   Contract Section 21.5(a)

   Contract states, "If Medicaid payments are made by the Contractor to an excluded or terminated provider for dates of service after the provider's exclusion or termination effective date, the Contractor shall report and explain within 60 days of identifying the payment, in a form and format to be determined by OMIG in consultation with SDOH, when and how the payment was identified, and the date on which the encounter data was adjusted to reflect the recovery."

   Contract Section 21.5(c)

As a result of this finding, OMIG has identified 5 instance(s), totaling **$339.96** (Exhibit A), where the Plan reported inappropriately made payments to excluded participating or non-participating providers.

Based on this determination, the total proposed amount due to DOH, as defined in 18 NYCRR Section 518.1, is **$339.96** (Exhibit A).

Do not submit encounter voids or adjustments in response to this Final Audit Report. Repayment instructions are outlined on the next page.

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 the 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
GNARESP Corning Tower, Room 2739
Audit #: 2020Z80-015J
Albany, New York 12237

Option #2: Enter into a repayment agreement with OMIG. 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%. 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. 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]

Should you fail to select a payment option above, OMIG, in its discretion, may use any remedy allowed by law to collect the amount due. Pursuant to the State Finance Law Section 18(5), a collection fee equal to twenty two percent (22%) of the amount due, including interest, may be added to the amount owed. OMIG's remedies may include, without limitation, filing this Final Audit Report as the final administrative determination for purposes of obtaining a judgment lien pursuant to Section 145-a of the New York State Social Services Law; withholding Medicaid payments otherwise payable to the provider or its affiliates pursuant to 18 NYCRR Section 518.6; and imposing a sanction, pursuant to 18 NYCRR Section 515.2, against a provider who fails to reimburse the department for overpayments discovered by this audit.

Hearing Rights

The Plan 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 Plan wishes to request a hearing, the request must be submitted in writing within sixty (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].

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

For a full listing of hearing rights please see 18 NYCRR Part 519.

Contact Information



Office Address:

New York State
Office of the Medicaid Inspector General
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.

NEW YORK STATE | Office of the Medicaid Inspector General

REMITTANCE ADVICE

Fidelis Care
95-25 Queens Boulevard
Rego Park, New York 11374-4509

Plan ID #: 04004486

Audit #: 2020Z80-015J

Amount Due: $339.96

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
GNARESP Corning Tower, Room 2739
Audit #: 2020Z80-015J
Albany, New York 12237