NEW YORK STATE | Office of the Medicaid Inspector General

FRANK T. WALSH, JR.
Acting Medicaid Inspector General

Audit of NYS Medicaid EHR Incentive Payment

Final Audit Report
Audit #: 20-3434

Dr. Venkateswararao Voleti

Provider ID #: 00869021
NPI #: 1164473526

Fighting Fraud. Improving Integrity and Quality. Saving Taxpayer Dollars.

NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

FRANK T. WALSH, JR.
Acting Medicaid Inspector General

May 20, 2021

Dr. Venkateswararao Voleti
700 Mcclellan Street Suite 103
Saint Clares Medical Arts Building
Schenectady, New York 12304

Re: Final Audit Report
Audit #: 20-3434
Provider #: 00869021
NPI #: 1164473526

Dear Dr. Voleti:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Dr. Voleti (Provider).

In accordance with the New York State Public Health Law, and Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York (NYCRR) Parts 504 and 517, OMIG performed an audit of the Provider's submitted attestation, signed July 25, 2018, for the meaningful use (MU) of a certified EHR system during the calendar year ending December 31, 2017. The Provider was paid an EHR incentive payment of $8,500 for the submitted attestation. The purpose of the audit is to ensure compliance with applicable Federal and State laws, regulations, rules, and policies governing the New York State Medicaid EHR Incentive Program, including verification of eligibility for the EHR Incentive Program and the meaningful use (MU) of a certified EHR system.

If you have any questions or comments concerning this Final Audit Report, please contact [redacted] or through email at [redacted] Please refer to audit number 20-3434 in all correspondence.

[redacted] Reviews
Office of the Medicaid Inspector General

Certified Mail Number: 7019 2280 0000 1416 7831
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 Department of Mental Hygiene (Title 14 of the New York Codes Rules and Regulations), the regulations of the Education Department (Title 8 of the New York Codes Rules and Regulations), DOH's Medicaid Provider Manuals and *Medicaid Update* publications.

Medicaid EHR Incentive payments were authorized by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and implemented by Federal regulation principally at 42 CFR Part 495. Through the NYS Medicaid EHR Incentive Program, eligible hospitals (EH) and eligible professionals (EP) in New York who adopt, implement, or upgrade certified EHR technology, and subsequently become meaningful users of the EHR technology, may qualify for financial incentives.

Objective

The objective of this audit was to assess the Provider's adherence to the applicable Federal and State laws, regulations, rules, and policies governing the New York State Medicaid EHR Incentive Program, including verification of eligibility for the EHR Incentive Program and the meaningful use (MU) of a certified EHR system.

Audit Scope

This audit examined the supporting documentation for the Provider's submitted attestation, signed July 25, 2018, regarding payment for the meaningful use (MU) of a certified EHR system during the calendar year ending December 31, 2017.

Regulations of General Application

The following are applicable Laws, Regulations, Rules and Policies of the Medicaid program referenced when conducting this audit:

- Departments of Health and Mental Hygiene [Titles 10, 14, and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR, 14 NYCRR, 18 NYCRR)].

- Medicaid Management Information System and eMedNY Provider Manual.

- Specifically, 42 CFR § 495-Standards for The Electronic Health Record Technology Incentive Program.

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

  "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*

  "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)

"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)

"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*

"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)*

"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)

"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)*

"The inspector shall have the following functions, duties and responsibilities:...(9) to require and compel the production of such books, papers, records and documents as he or she may deem to be relevant or material to an investigation, examination or review undertaken pursuant to this section..." *Public Health Law §32(9)*

During enrollment in the NYS EHR Incentive Program each provider attested to the following: "I hereby agree to keep such records as are necessary to demonstrate that I met all Medicaid EHR Incentive Program requirements...failure to furnish subsequently requested information or documents will result in the issuance of an overpayment demand letter followed by recoupment procedures." *NYS EHR Incentive Program Attestation*

Audit Findings

After reviewing your response to the OMIG's February 11, 2021 Draft Audit Report, the overpayment in the Final Audit Report remains unchanged to the overpayment identified in the Draft Audit Report.

The OMIG's review of your payment for the Medicaid EHR Incentive Program identified at least one error, for a total overpayment of $8,500. The errors identified in the audit are described in the Detailed Findings below.

Failure to Support Meaningful Use Objectives/Measures

"*Subsequent payment years.* (1) In the second, third, fourth, fifth, and sixth payment years, to receive an incentive payment, the Medicaid EP or eligible hospital must demonstrate that during the EHR reporting period for the applicable payment year, it is a meaningful EHR user, as defined in § 495.4." *42 CFR § 495.314(b)*

"*(1) General rule regarding criteria for meaningful use for 2015 through 2018 for EPs. Except as specified in paragraph (b)(2) of this section, EPs must meet all objectives and associated measures of the meaningful use criteria specified under paragraph (e) of this section to meet the definition of a meaningful EHR user.*" *42 CFR §495.22(bh)*

The Provider failed to produce documentation upon audit to support that the following Modified Stage 2 objectives/measures/exclusions were met during the EHR reporting period as required by federal regulations and, therefore, the Provider was not eligible to receive an incentive payment for the 2017 payment year:

Secure Electronic Messaging

"Meaningful use objectives and measures for EPs for 2015 through 2018… (9)(i) EP objective. Use secure electronic messaging to communicate with patients on relevant health information. (ii) EP measure. (A) Measure. For an EHR reporting period…(3) In 2017 and 2018, for more than 5 percent of unique patients seen by the EP during the EHR reporting period, a secure message was sent using the electronic messaging function of CEHRT to the patient (or the patient-authorized representative), or in response to a secure message sent by the patient (or the patient-authorized representative) during the EHR reporting period. (B) Exclusion in accordance with paragraph (b)(2) of this section. An EP may exclude from the measure if he or she (1) Has no office visits during the EHR reporting period; or (2) Conducts 50 percent or more of his or her patient encounters in a county that does not have 50 percent or more of its housing units with 4Mbps broadband availability according to the latest information available from the Federal Communications Commission on the first day of the EP's EHR reporting period." *42 CFR §495.22 (e)(9)*

Public Health Reporting

"Meaningful use objectives and measures for EPs for 2015 through 2018… (10) (i) EP Public Health Reporting— (A) Objective. The EP is in active engagement with a public health agency to submit electronic public health data from CEHRT, except where prohibited, and in accordance

with applicable law and practice. (B) Measures. In order to meet the objective under paragraph (e)(10)(i)(A) of this section, an EP must choose from measures 1 through 3 (as specified in paragraphs (e)(10)(i)(B)(1) through (3) of this section) and must successfully attest to any combination of two measures. The EP may attest to measure 3 (as specified in paragraph (e)(10)(i)(B)(3) of this section more than one time. These measures may be met by any combination in accordance with applicable law and practice. (1) Immunization registry reporting. The EP is in active engagement with a public health agency to submit immunization data. (2) Syndromic surveillance reporting. The EP is in active engagement with a public health agency to submit syndromic surveillance data. (3) Specialized registry reporting. The EP is in active engagement to submit data to specialized registry. (C) Exclusions in accordance with paragraph (b)(2) of this section. (1) Any EP meeting one or more of the following criteria may be excluded from the immunization registry reporting measure in paragraph (e)(10)(i)(B)(1) of this section if the EP: (i) Does not administer any immunizations to any of the populations for which data is collected by his or her jurisdiction's immunization registry or immunization information system during the EHR reporting period. (ii) Operates in a jurisdiction for which no immunization registry or immunization information system is capable of accepting the specific standards required to meet the CEHRT definition at the start of his or her EHR reporting period. (iii) Operates in a jurisdiction in which no immunization registry or immunization information system has declared readiness to receive immunization data from the EP at the start of the EHR reporting period. (2) Any EP meeting one or more of the following criteria may be excluded from the syndromic surveillance reporting measure described in paragraph (e)(10)(i)(B)(2) of the section if the EP: (i) Is not in a category of providers from which ambulatory syndromic surveillance data is collected by their jurisdiction's syndromic surveillance system; (ii) Operates in a jurisdiction for which no public health agency is capable of receiving electronic syndromic surveillance data from EPs in the specific standards required to meet the CEHRT definition at the start of the EHR reporting period. (iii) Operates in a jurisdiction where no public health agency has declared readiness to receive syndromic surveillance data from EPs at the start of the EHR reporting period. (3) Any EP who meets one or more of the following criteria may be excluded from the specialized registry reporting measure described in paragraph (e)(10)(i)(B)(3) of this section if the EP: (i) Does not diagnose or treat any disease or condition associated with or collect relevant data that is required by a specialized registry in their jurisdiction during the EHR reporting period; (ii) Operates in a jurisdiction for which no specialized registry is capable of accepting electronic registry transactions in the specific standards required to meet the CEHRT definition at the start of the EHR reporting period; or (iii) Operates in a jurisdiction where no specialized registry for which the EP is eligible has declared readiness to receive electronic registry transactions at the beginning of the EHR reporting period. " *42 CFR §495.22 (e)(10)*

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, money order, or OMIG's Online Payment Portal 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, should include the audit number on the memo line, and be mailed with the attached remittance advice to:

  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]
  Email: [redacted]

- If you elect to pay electronically through OMIG's Online Payment Portal, please visit [redacted] or contact OMIG's Bureau of Collections Management by telephone or email, at the above number or address.

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's acceptance of a 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, by telephone or email, as provided above.

Should you fail to select a payment option above within 20 days of the date of this Report, OMIG will initiate recoupment by withholding all or a part of your payments otherwise payable, in accordance with 18 NYCRR 518.6. Additionally, OMIG reserves the right to 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.

Hearing Rights

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 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, 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.

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
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.

NEW YORK STATE | Office of the Medicaid Inspector General

REMITTANCE ADVICE

Dr. Venkateswararao Voleti
700 Mcclellan Street Suite
103 Street Clares Medical Arts Building
Schenectady, New York 12304

Provider ID #: 00869021

Audit #: 20-3434

Amount Due: $8,500

Audit Type

- ☐ **Managed Care**
- ☐ **Fee-for-Service**
- ☒ **Medicaid EHR**

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 20-3434**HIT** on your check.
4. Mail the check to:

New York State Office of the Medicaid Inspector General
Bureau of Collections Management
800 North Pearl Street
Audit #: 20-3434
Albany, New York 12204
Phone #: [redacted]
Fax#: [redacted]
Email: [redacted]

If you elect to pay electronically through OMIG's Online Payment Portal, please visit [redacted] or contact OMIG's Bureau of Collections Management by telephone or email, at the above number or address.