



Office of the  
Medicaid Inspector  
General

FRANK T. WALSH, JR.  
Acting Medicaid Inspector General

# **Audit of Managed Long Term Care Claims for Recipients Concurrently Enrolled in a Traumatic Brain Injury or Nursing Home Transition and Diversion Waiver Program Paid From September 1, 2014 to December 31, 2019**

---

**Final Audit Report  
Audit #: 2020Z86-002F**

---

**Independence Care System, Inc.  
Plan ID #: 01865329**



Office of the  
Medicaid Inspector  
General

ANDREW M. CUOMO  
Governor

FRANK T. WALSH, JR.  
Acting Medicaid Inspector General

July 15, 2021

[REDACTED]  
Independence Care System, Inc.  
25 Elm Place 5th Floor  
Brooklyn, New York 11201

Final Audit Report  
Audit #: 2020Z86-002F  
Plan ID #: 01865329

Dear Provider:

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

In accordance with the Managed Long Term Care Partial Capitation Model Contract (Contract) and 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.

The Plan's June 28, 2021 response to OMIG's July 30, 2020 Draft Audit Report stated that the Plan is in agreement with the Draft Audit Report findings. Subsequently, OMIG adjustments resulted in the Draft Audit Report overpayments being reduced from \$168,084.29 to \$148,152.26 in this Final Report. The total Medicaid overpayment is \$148,152.26. A detailed explanation can be found in the Audit Findings section of this report.

OMIG has attached an 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 2020Z86-002F in all correspondence.

Sincerely,

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

Attachment

---

**Table of Contents**

---

Background	1
Objective	1
Audit Scope	1
Audit Findings	2
Repayment Options	4
Hearing Rights	5
Contact Information	6
Remittance Advice	
Exhibits:	
A – MLTC Claims for Recipients Concurrently Enrolled in a TBI or NHTD Waiver Program from September 1, 2014 to December 31, 2019	

---

---

## 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, 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 (NYCRR)), the regulations of the Department of Mental Hygiene (Title 14 of the NYCRR), DOH's Medicaid Provider Manuals, *Medicaid Update* publications, and the Contract.

Managed Long Term Care (MLTC) is a system that streamlines the delivery of long term services to people who are chronically ill or disabled and who wish to stay in their homes and communities. These services, such as home care or adult day care, are provided through Managed Long Term Care Plans (MLTCP) that are approved by DOH. The entire array of services to which an enrolled member is entitled can be received through the MLTCP the member has chosen. There are specific populations of recipients that cannot enroll in MLTC and may not receive benefits through an MLTCP.

In accordance with 18 NYCRR Parts 517 and 518, and pursuant to the Contract, specifically Articles IV and V, OMIG, on behalf of DOH, has the right to recover premiums paid to the Plan for enrollees that were concurrently enrolled in a TBI or NHTD waiver program.

### Objective

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

- identify MLTC claims billed for recipients concurrently enrolled in a TBI or NHTD waiver program.

### Audit Scope

An audit of MLTC claims for recipients that were concurrently enrolled in a TBI or NHTD waiver program for payment dates included in the period beginning September 1, 2014 and ending December 31, 2019 was completed.

*Please note that due to the implementation of the National Provider Identifier (NPI) on September 1, 2008, there may be multiple Provider Identification Numbers associated with the Primary Provider Identification Number. The NPI is linked to the Primary Provider Identification Number. The Primary Provider Identification Number is used for correspondence and recoupment.*



---

## Audit Findings

---

OMIG issued a Draft Audit Report to the Plan on July 30, 2020 that identified \$168,084.29, in Medicaid overpayments. The Plan's June 28, 2021 response to the Draft Audit Report stated that the Plan is in agreement with the Draft Audit Report findings. Subsequently, OMIG adjustments reduced the overpayments identified in this Final Audit Report by \$19,932.03, from \$168,084.29 to \$148,152.26.

One or more of the following audit criteria resulted in an audit finding and overpayment determination, as outlined below and in the enclosed exhibit.

### **1. MLTC Claims for Recipients Concurrently Enrolled in a TBI or NHTD Waiver Program**

By enrolling the provider agrees ... to prepare and to maintain contemporaneous records demonstrating its right to receive payment under the medical assistance program 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 and to furnish such records and information, upon request, to the department, the Secretary of the United States Department of Health and Human Services, the Deputy Attorney General for Medicaid Fraud Control and the New York State Department of Health.

*18 NYCRR 504.3(a)*

By enrolling the provider agrees...that the information provided in relation to any claim for payment shall be true, accurate, and complete;

*18 NYCRR 504.3(h)*

By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department.

*18 NYCRR 504.3(i)*

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 518.1(c)*

The following individuals cannot receive benefits through the Partial Capitation MLTCP...Individuals in the following section 1915(c) waiver programs: Traumatic Brain Injury or Nursing Home Transition & Diversion.

*2017 Contract, Article IV, Eligibility for Managed Long Term Care (C)(1)(o)*

*See also 2015 & 2012 Contracts, Article IV, Eligibility for Managed Long Term Care (C)(1)(p)*

The effective date of disenrollment must be no later than the first day of the second month after the month in which the disenrollment was requested.

*Contract, Article V, Obligations of the Contractor (D)(2)(a)*

An Enrollee who elects to join and/or receive services from another managed care plan capitated by Medicaid [or] a 1915(c) waiver program...is considered to have initiated disenrollment from the MLTCP.

*Contract, Article V, Obligations of the Contractor (D)(2)(b)*

Exhibit A is a list of MLTC claims that were billed when a recipient was concurrently enrolled in a TBI or NHTD waiver program. As a result, OMIG has determined that **\$148,152.26** was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

Based on this determination, the total amount due to DOH, as defined in 18 NYCRR Section 518.1, is **\$148,152.26** (Exhibit A).

**Do not submit claim 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, 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  
[REDACTED]  
[REDACTED]

- If you elect to pay electronically through OMIG's Online Payment Portal, please visit <https://omig.ny.gov/online-payment-portal> 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

---

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]  
[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  
Division of Systems Utilization and Review  
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

Independence Care System, Inc.  
25 Elm Place 5th Floor  
Brooklyn, New York 11201

Plan ID #: 01865329

Audit #: 2020Z86-002F

Amount Due: \$148,152.26

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:

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

If you elect to pay electronically through OMIG's Online Payment Portal, please visit <https://omig.ny.gov/online-payment-portal> or contact OMIG's Bureau of Collections Management by telephone or email, at the above number or address.