NEW YORK STATE | Office of the Medicaid Inspector General

FRANK T. WALSH, JR.
Acting Medicaid Inspector General

Audit of Claims for Dental Services Paid From October 1, 2015 to December 31, 2020

Final Audit Report
Audit #: 2021Z10-030B

Ruben D. Cueto

Provider ID #: 02224037

NEW YORK STATE | Office of the Medicaid Inspector General

KATHY HOCHUL
Governor

FRANK T. WALSH, JR.
Acting Medicaid Inspector General

September 3, 2021

Ruben D. Cueto
278 Wilson Avenue
Brooklyn, New York 11237-5140

Final Audit Report
Audit #: 2021Z10-030B
Provider ID #: 02224037

Dear Provider:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Ruben D. Cueto (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.

The Provider's August 14, 2021 response to OMIG's July 28, 2021 Draft Audit Report stated that the Provider 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 $758.40, including interest to date.

OMIG has attached the exhibit(s) of paid claims identified as overpayments. Please email [redacted] if you have any questions or comments concerning this report. Please refer to audit number 2021Z10-030B in all correspondence.

Sincerely,

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

Attachments

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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.

The OMIG performed an audit of certain Medicaid payments for dental services. The audit reviewed Medicaid fee-for-service dental claims billed: after complete upper or lower dentures, for partial upper dentures billed after complete upper dentures or lower dentures billed after complete lower dentures, as well as for Medicaid recipients who were edentulous or were in a Skilled Nursing Facility.

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 identify:

- claims for dental services billed for edentulous Medicaid recipients;
- claims for dental services billed after complete upper or lower dentures;
- claims for partial upper dentures billed after complete upper dentures or partial lower dentures billed after complete lower dentures; and
- claims for dental services billed fee-for-service for Medicaid recipients in a Skilled Nursing Facility.

Audit Scope

An audit of dental services paid for payment dates included in the period beginning October 1, 2015 and ending December 31, 2020 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 Provider on July 28, 2021 that identified $758.40 in Medicaid overpayments. The Provider's August 14, 2021 response to the Draft Audit Report stated that the Provider 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.

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

1. Dental Services Billed for Edentulous Medicaid Recipients

Medicaid recipients who have claims for both upper (maxillary) and lower (mandibular) dentures, were identified as edentulous (having no teeth). Certain procedures billed for edentulous patients, including, among others, prophylaxis, amalgam, resin, resin-based composites, prefabricated post and core, are inappropriate.

> 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)*

> 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)*

> By enrolling, the provider agrees…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.
>
> *18 NYCRR 504.3(e)*

> 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 YCRR 504.3(i)*

Exhibit A* is a list of dental claims that were billed for edentulous Medicaid recipients. As a result, OMIG has determined that **$90.00** was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

2. Dental Services Billed after Complete Upper or Lower Dentures

Medicaid recipients who have claims for complete maxillary (upper) or complete mandibular (lower) dentures were identified. Certain services performed after the placement of the complete denture, when the tooth location matches the denture location, are considered inappropriate. Such procedures include, among others, amalgam, resin and resin-based composites, prefabricated resin crowns, extractions, and occlusal guards.

> 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)*

> 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)*

> By enrolling, the provider agrees…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.
>
> *18 NYCRR 504.3(e)*

> 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)*

Exhibit B* is a list of dental claims that were billed after complete upper or lower dentures. As a result, OMIG has determined that **$0.00** was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

3. Partial Upper Dentures Billed after Complete Upper Dentures or Partial Lower Dentures Billed after Complete Lower Dentures

Medicaid recipients who have claims for complete maxillary or complete mandibular dentures were identified. Partial denture services performed after the placement of the complete denture when the partial locations (arch) matches the complete denture location (arch) are considered inappropriate.

> 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)

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)

By enrolling, the provider agrees…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.

18 NYCRR 504.3(e)

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 YCRR 504.3(i)

Exhibit C* is a list of dental claims for partial upper dentures billed after complete upper dentures or partial lower dentures billed after complete lower dentures. As a result, OMIG has determined that **$350.00** was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

4. Dental Services Billed Fee-for-Service for Recipients in a Skilled Nursing Facility

Dental claims for recipients residing in a skilled nursing facility were identified. These claims should be reimbursed by the skilled nursing facility, not billed to Medicaid fee-for-service. Clams billed on the day of admission or the day of discharge were removed from the finding.

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)

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)

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)*

> The facility shall provide oral hygiene care and routine and 24-hour emergency dental care in accordance with the comprehensive resident care plan and which meets generally accepted standards of dental and dental hygiene care and services.
>
> *10 NYCRR 415.17*

> Dental services are included in the facility rates. Payment for services to residents of such facilities will not be made on a fee-for-service basis. It is the responsibility of the facility to make arrangements for the provision of all dental services listed in the Provider Manual either within the facility or with area providers. Claims should not be submitted by either the provider(s) or facility for covered dental services or for transportation.
>
> *eMedNY Provider Manual for Dental*
> *Version 2013-1, p.13*
> *Version 2016, p.15*
> *Version 2017-1, p.15*
> *Version 2018-1, p.15*
> *Version 2018-2, p.15*

Exhibit D* is a list of dental claims billed fee-for-service for Medicaid recipients in a Skilled Nursing Facility. As a result, OMIG has determined that **$194.00** was inappropriately billed to Medicaid, resulting in Medicaid overpayments.

In accordance with 18 NYCRR Section 518.4, interest may be collected on any overpayments identified in this audit and will accrue at the current rate from the date of the overpayment. Interest on the overpayments identified in this Final Audit Report was calculated from the date of each overpayment through the date of the Draft Audit Report, using the Federal Reserve Prime Rate. For the overpayments identified in this audit, OMIG has determined that accrued interest of **$124.40** (Exhibits A through D) is now owed.

Based on this determination, the total amount due to DOH, as defined in 18 NYCRR Section 518.1, is **$758.40** (Exhibits A through D), including interest to date.

Where there is no overpayment (reflected herein as $0.00) associated with a disallowance category, no Exhibit will be included.

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

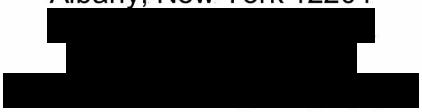
Repayment Options

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



- 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 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 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 Provider may have a person represent it 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 its 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 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.

NEW YORK STATE | Office of the Medicaid Inspector General

REMITTANCE ADVICE

Ruben D. Cueto
278 Wilson Avenue
Brooklyn, New York 11237-5140

Provider ID #: 02224037

Audit #: 2021Z10-030B

Amount Due: $758.40

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
[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.