



Audit of Claims for Health Care and Mental Hygiene Worker Bonus

**Final Audit Report
Audit #: 24-4894**

Leanora Brewster, LPN

Provider ID #: [REDACTED]

NPI #: [REDACTED]



**Office of the Medicaid
Inspector General**

KATHY HOCHUL
Governor
FRANK T. WALSH, JR.
Acting Medicaid Inspector General

January 8, 2025

Leanora Brewster, LPN
493 Williams Ave
Brooklyn, New York 11207-5105

RE: Final Audit Report
Audit #: 24-4894
Provider #: [REDACTED]

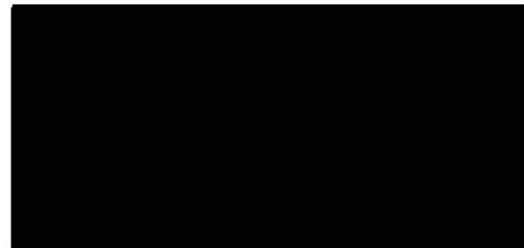
Dear Leanora Brewster:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Leanora Brewster, LPN.

In accordance with Sections 30, 31 and 32 of 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, 517, and Social Services Law Section 367-w, OMIG performed an audit of Health Care and Mental Hygiene Worker Bonus (HCMHWB) claims paid to the Provider from October 1, 2021, through March 31, 2024. The HCMHWB audit consisted of 2 claims totaling \$3,000. (Attachment A).

OMIG has attached the sample detail for the paid claims determined to be in error. This Final Audit Report incorporates consideration of any additional documentation and information presented in the Provider's response to the Draft Audit Report dated October 30, 2024. OMIG has determined that the overpayment received by the Provider is \$3,000.

If you have any questions or comments concerning this report, please contact [REDACTED] at [REDACTED] or through email at [REDACTED]. Please refer to audit number 24-4894 in all correspondence.



Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachments
Certified Mail Number: [REDACTED]
Return Receipt Requested

cc: [REDACTED]

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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), 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.

Objective

The objective of this audit was to assess Leanora Brewster, LPN's adherence to applicable laws, regulations, rules and policies governing the New York State Medicaid program and to verify that:

- Health Care and Mental Hygiene Worker Bonus claims filed and payments received by the employee are validated;
- appropriate claim amounts were correctly dispersed to eligible employees;
- provider related records contained the documentation required by the regulations; and,
- claims for payment were submitted in accordance with applicable rules and requirements.

Audit Scope

A review of HCMHWB claims paid to the Provider by Medicaid for payment dates included in the period beginning October 1, 2021, and ending March 31, 2024, was completed.

The audit consisted of 2 claims totaling \$3,000.

Regulations of General Application

Each audit finding is supported by relevant regulations, policy statements and manuals. In addition, the audit findings in this audit are supported by regulations of general application to the Medicaid program. These regulations are provided below.

“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

“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)

“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)

“Employers shall be responsible for determining whether an employee is eligible under this section and shall maintain and make available upon request all records, data and information the employer relied upon in making the determination that an employee was eligible...”
Social Services Law Section 367-w (3)(c)

“Employers shall maintain contemporaneous records for all tracking and claims related information and documents required to substantiate claims submitted under this section for a period of no less than six years. Employers shall furnish such records and information, upon request, to the commissioner, the Medicaid Inspector General...”
Social Services Law Section 367-w(3)(d)

“The Medicaid inspector general shall, in coordination with the commissioner, conduct audits, investigations and reviews of employers required to submit claims under this section. Such claims, inappropriately paid, under this section shall constitute overpayments as that term is defined under the regulations governing the medical assistance program. The Medicaid inspector general may recover such overpayments to employers as it would an overpayment under the medical assistance program, impose sanctions up to and including exclusion from the medical assistance program, impose penalties, and take any other action authorized by law...”
Social Services Law Section 367-w(5)(a)

"Rules and regulations. The commissioner, in consultation with the Medicaid inspector general as it relates to subdivision five of this section, may promulgate rules, to implement this section pursuant to emergency regulation; provided, however, that this provision shall not be construed as requiring the commissioner to issue regulations to implement this section."

Social Services Law Section 367-w(6)

Audit Findings

OMIG's preliminary findings appear in the following pages. A description of each finding, regulations, and the list of samples supporting each finding, appear below. Each sample may contain more than one error, and may be listed in more than one category of finding. A sample may only be disallowed once in an audit, however, each sample is subject to disallowance based on a single error. This audit has a total adjustment of \$3,000.

Summary of Audit Findings

<u>Error Description</u>	<u>Number of Errors</u>
Bonus Incorrectly Paid to an Employee Earning in Excess of the Threshold Amount	2

Audit Findings Detail

OMIG's review of Health Care and Mental Hygiene Worker Bonus (HCMHWB) claims paid to the Provider from October 1, 2021, through March 31, 2024, identified 2 claims with at least one error, for a total overpayment of \$3,000 (Attachment C).

1. Bonus Incorrectly Paid to an Employee Earning in Excess of the Threshold Amount

““Employee” means certain front line health care and mental hygiene practitioners, technicians, assistants and aides that provide hands on health or care services to individuals, without regard to whether the person works full-time, part-time, on a salaried, hourly, or temporary basis, or as an independent contractor, that received an annualized base salary of one hundred twenty-five thousand dollars or less. . . .”

Social Services Law Section 367-w(2)(a)

““Vesting period” shall mean a series of six-month periods between the dates of October first, two thousand twenty-one and March thirty-first, two thousand twenty-four for which employees that are continuously employed by an employer during such six-month periods, in accordance with a schedule issued by the commissioner or relevant agency commissioner as applicable, may become eligible for a bonus pursuant to subdivision four of this section.”

Social Services Law Section 367-w(2)(d)

““Base salary” shall mean, for the purposes of this section, the employee's gross wages with the employer during the vesting period, excluding any bonuses or overtime pay.”

Social Services Law Section 367-w(2)(e)

“The use of any accruals or other leave, including but not limited to sick, vacation, or time used under the family medical leave act, shall be credited towards and included in the calculation of the average number of hours worked per week over the course of the vesting period.”

Social Services Law Section 367-w(4)(i)

In 2 instances, the bonus was incorrectly paid to an employee earning in excess of the threshold amount. For claim # 1, employee earned \$88,923 during vesting period 4/1/2022-9/30/2022. For claim # 2, the employee earned \$99,278 during vesting period 10/1/2022-3/31/2023. The annualized income is \$188,201 in excess of the \$125,000 yearly threshold amount. This finding applies to claim #s 1 and 2.

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

If you choose not to settle this audit through repayment of the amount of \$3,000, you have the right to challenge these findings by requesting an administrative hearing. As allowed by state regulations, you must make your request for a hearing, in writing, within sixty (60) days of the date of this report to:

General Counsel
Office of Counsel
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, NY 12204

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

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 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 on your behalf.

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

Contact Information

[REDACTED]

[REDACTED]

Office Address:

New York State
Office of the Medicaid Inspector General
Division of Medicaid Audit
250 Veteran's Memorial Highway, Room 4A12
Hauppauge, New York 11788

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

Leanora Brewster, LPN
493 Williams Ave
Brooklyn, New York 11207-5105

Provider ID #: [REDACTED]

Audit #: 24-4894

Amount Due: \$3,000

Audit
Type

Health Care and Mental Hygiene
Worker Bonus

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
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.