



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
584 Delaware Avenue
Buffalo, New York 14202

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

April 5, 2013

[REDACTED]
Grant Pharmacy, Inc.
1340 Edward L. Grant Highway
Bronx, NY 10452

Final Audit Report

Audit #09-5360

Provider ID [REDACTED]

Dear [REDACTED]:

This letter will serve as our final audit report of the recently completed review of payments made to Grant Pharmacy, Inc. under the New York State Medicaid Program. Since you did not respond to our draft audit report dated January 17, 2013, the findings in the final audit report are identical to those in the draft audit report.

The New York State Department of Health is responsible for the administration of the Medicaid program. As part of this responsibility, 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 by the Departments of Health and Education [Titles 8, 10, and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (8 NYCRR, 10 NYCRR, 18 NYCRR)] and the Medicaid Management Information System (MMIS) Provider Manuals.

Pharmacy is a professional practice, which includes a number of activities that are necessary for the provision of drugs for patients as ordered by persons authorized under State law to prescribe drugs. Pharmacies, which are licensed and currently registered by the New York State Board of Pharmacy, Department of Education, may dispense drugs and other medical/surgical supplies. The pharmacy must comply with all applicable provisions of State Law including Article 137 of the Education Law, Articles 1 and 33 of the Public Health Law, and the Pharmacy Guide to Practice (Pharmacy Handbook) issued by the Department of Education. The specific standards and criteria for pharmacies are outlined in Title 10 NYCRR Parts 80 and 85.20-22 and Title 18 NYCRR Section 505.3. The MMIS Provider Manual for Pharmacy also provides program guidance for claiming Medicaid reimbursement for pharmacy services.

A review of payments to Grant Pharmacy, Inc. for pharmacy services paid by Medicaid for New York City recipients from January 1, 2004, through December 31, 2008, was recently completed. During the audit period, \$9,854,240.23 was paid for 78,132 services rendered. This review consisted of a random sample of 200 services with Medicaid payments of \$34,055.72. The purpose of this audit was to verify that: prescriptions were properly ordered by a qualified practitioner; the pharmacy had sufficient documentation to substantiate billed services; appropriate formulary codes were billed; patient related records contained the documentation required by the regulations; and claims for payment were submitted in accordance with New York State laws, Department regulations and the Provider Manuals for Pharmacy.

Grant Pharmacy, Inc.'s failure to comply with Titles 8, 10, and/or 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), the MMIS Provider Manual for Pharmacy, and the Pharmacy Guide to Practice resulted in a total sample overpayment of \$6,985.44 (Exhibit I).

The following detailed findings reflect the results of our audit. This audit report incorporates consideration of any additional documentation and information presented in response to the draft audit report dated January 17, 2013. Since you did not respond to the draft audit report, the findings remain the same.

DETAILED FINDINGS

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

Regulations state: "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

Regulations state: "All bills for medical care, services and supplies shall contain: . . . (8) a dated certification by the provider that the care, services and supplies itemized have in fact been furnished; that the amounts listed are 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)

Regulations state: "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)

Furthermore, according to regulations, all providers must prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program. In addition, the provider must keep, for a period of six years, all records necessary to disclose the nature and extent of services furnished and the medical necessity therefor, including any prescription or fiscal order for the service or supply. This information is subject to audit for a period of six years and must be furnished, upon request.

18 NYCRR Section 517.3(b)

1. Ordering Prescriber Conflicts with Claim Prescriber

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

18 NYCRR Sections 504.3(f) and (h)

Regulations state: "The identity of the practitioner who ordered the... medical/surgical supply, . . . must be recorded by the provider on the claim for payment by entering in the license or MMIS provider identification number of the practitioner where indicated."

18 NYCRR Section 505.5(c)(1)

Medicaid policy requires the billing provider to complete the ordering/prescribing provider section of the claim for prescriptions from private practitioners by entering the "MMIS ID Number of the prescriber. If the prescriber is not enrolled in MMIS, enter his/her State License number . . . For orders originating in a hospital, clinic or other health care facility, the facility's MMIS ID Number may be entered only when the prescriber's MMIS ID or State License number is unavailable. When a prescription is written by an unlicensed intern or resident, the supervising physician's MMIS ID Number should be entered. If the supervising physician is not enrolled in MMIS, his/her State License number may be entered. When these numbers are unavailable, enter the facility's MMIS ID Number . . . When prescriptions have been written by a physician's assistant, the supervising physician's MMIS ID Number should be entered. If the supervisor is not enrolled in MMIS, enter his/her State License number. If these numbers are unavailable and the prescription originated in a facility, enter the facility's MMIS ID Number . . . If the MMIS ID or State License number is not on the prescription . . . it is the pharmacist's responsibility to obtain it."

MMIS Provider Manual for Pharmacy Version 2004-1, Section 3

Medicaid policy requires the billing provider to enter the Medicaid ID Number of the ordering/prescribing provider or, if the ordering prescriber is not enrolled in the Medicaid Program, to enter his/her license number. The supervising MD's MMIS or license number should be entered for an unlicensed intern or resident for a prescription from a facility, and the facility's Medicaid ID number may be entered **only** when the prescriber's or supervising physician's Medicaid ID or License number is unavailable. When prescriptions have been written by a Physician's Assistant, the supervising physician's Medicaid ID number or license number should be entered. [There is no provision here for entering facility MMIS ID number in absence of the supervising MD number for a prescription written by a Physician's Assistant.] If the prescribing provider is a Nurse Practitioner certified to write prescriptions, enter his/her Medicaid ID number or license number in this field. **Note: If the Medicaid ID or State License number of an authorized prescriber is not on the prescription, it is the pharmacist's responsibility to obtain it.**

In addition, if a license number is indicated, the Profession Code that identifies the ordering/prescribing provider's profession must be entered. Directions are given to obtain profession codes.

NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2005-1, Section II

NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2007-1, Section II

NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2008-1, Section II

Medicaid policy requires the billing provider to enter the Medicaid ID Number or the NPI of the ordering/prescribing provider. If the NPI is not known and the orderer/prescriber is not enrolled in the Medicaid program, enter his/her License number. If a license number is indicated, the Profession Code that identifies the ordering/prescribing provider's profession must be entered. For orders originating in a hospital, clinic, or other health care facility, the following rules apply: When a prescription is written by an unlicensed intern or resident, the supervising physician's Medicaid ID number, NPI or license number should be entered in this field. When prescriptions have been written by a Physician's Assistant, the supervising physician's Medicaid ID number, NPI or license number should be entered in this field. Certified Nurse Practitioners with licenses that contain six digits not preceded by the letter F can only write fiscal orders. If the prescribing provider is a Nurse Practitioner certified to write prescriptions, enter his/her Medicaid ID number, NPI or license number in this field. **Note: If the Medicaid ID, NPI or State License number of an authorized prescriber is not on the prescription, it is the pharmacist's responsibility to obtain it.**

NYS Medicaid Program Pharmacy Manual Billing Guidelines Version 2008-2, Section II
NYS Medicaid program Pharmacy Manual Billing Guidelines Version 2008-3, Section II

The Medicaid Updates provide direction on identifying the ordering prescriber on the Medicaid claim.

DOH Medicaid Update March 2004
DOH Medicaid Update October 2004
DOH Medicaid Update September 2005

The Medicaid Update identifies the State Education Department's (SED) website to obtain or verify prescriber license numbers.

DOH Medicaid Update March 2000

The Medicaid Update states that it is inappropriate to use a facility's Medicaid identification number as the ordering/referring/prescribing provider.

DOH Medicaid Update January 2008

In 44 instances pertaining to 35 patients, the ordering prescriber conflicts with the claim prescriber. This resulted in a sample overpayment of \$6,866.46 (Exhibit II).

2. Pharmacy Billed in Excess of Prescribed Quantity

State law establishes: "Any person, who . . . puts up a greater or lesser quantity of any ingredient specified in any such prescription, order or demand than that prescribed, ordered or demanded, except where required pursuant to paragraph (g) of subdivision two of section three hundred sixty-five-a of the social services law . . . is guilty of a misdemeanor."

Education Law Article 137 Section 6816.1.a

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

18 NYCRR Sections 504.3(f) and (h)

Medicaid policy states that quantities for prescription drugs shall be dispensed in the amount prescribed, taking into consideration those drugs should be ordered in a quantity consistent with the health needs of the recipient and sound medical practice. For non-prescription drug and medical/surgical supply orders, if the ordering practitioner requests a quantity that does not correspond to the pre-packaged unit, the pharmacist may supply the drug in the pre-packaged quantity that most closely approximates the ordered amount.

NYS Medicaid Program Pharmacy Manual Policy Guidelines Version 2006-1, Section I

In 1 instance, the pharmacy billed for a quantity that exceeded the prescribed quantity. This resulted in a sample overpayment of \$50.70 (Exhibit III).

3. Missing Prescription

Regulations state: "Drugs may be obtained only upon the written order of a practitioner, except for telephone and electronic orders for drugs filled in compliance with this section and 10 NYCRR Part 910." *18 NYCRR Section 505.3(b)(1)*

Regulations state: "When used in the context of an order for a prescription drug, the order must also meet the requirements for a prescription under section 6810 of the Education Law and 10 NYCRR Part 910." *18 NYCRR Section 505.3(b)(3)*

Regulations also state: "A pharmacy must keep on file the signed written order of the practitioner for audit by the department, or other authorized agency, for six years from the date of payment for any drug dispensed." *18 NYCRR Section 505.3(c)*

Regulations state: "All providers, who are not paid at rates or fees approved by the State Director of the Division of the Budget based upon their allowable costs of operation but who are paid in accordance with the rates, fees and schedules established by the department, must prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program. All records necessary to disclose the nature and extent of services furnished and the medical necessity therefore, including any prescription or fiscal order for the service or supply, 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." *18 NYCRR Section 517.3(b)(1)*

Regulations state: "Written order or fiscal order are terms which are used interchangeably in this section and refer to any original, signed written order of a practitioner including any faxed transmitted order which requests a pharmacy to provide a drug to a medical assistance recipient. All written orders and fiscal orders shall comply with the provisions of Section 21 of the Public Health Law and regulations promulgated thereunder or contained in this section including but not limited to requirements for prescribing brand necessary drugs." *18 NYCRR Section 505.3(a)(6)*

In 1 instance, an original prescription was missing. This resulted in a sample overpayment of \$48.78 (Exhibit IV).

4. Prescriber's Signature Missing on Prescription/Fiscal Order

State law requires: "Every prescription written in this state by a person authorized to issue such prescription shall be on prescription forms containing one line for the prescriber's signature. The prescriber's signature shall validate the prescription." *Education Law Article 137 Section 6810.6(a)*

State Law established: "...The imprinted or stamped name shall not be employed as a substitute for, or fulfill any legal requirement otherwise mandating that the prescription be signed by the prescriber." *Education Law Article 137 Section 6810.8*

State Law establishes: "It shall be a class A misdemeanor for...Any person to forge, counterfeit, simulate, or falsely represent, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules and regulations promulgated under the provisions of this article..."

Education Law Article 137 Section 6811.15

The Rules of the Board of Regents state that unprofessional conduct in the practice of pharmacy includes "dispensing a written prescription which does not bear...the name, address, telephone number, profession and signature of the prescriber; . . ."

8 NYCRR Section 29.7(a)(1)

Regulations state: "The terms written order or fiscal order are used interchangeably in this section and mean any original, signed written order of a practitioner which requests durable medical equipment, prosthetic or orthotic appliances and devices, medical/surgical supplies, or orthopedic footwear."

18 NYCRR Section 505.5 (a)(8)

Regulations state: "Written order or fiscal order . . . refer[s] to any original, signed written order of a practitioner" including any faxed transmitted order "which requests a pharmacy to provide a drug to a medical assistance recipient."

18 NYCRR Section 505.3(a)(6)

Medicaid policy state that "pharmacies must keep on file the signed prescription or fiscal order of the prescribing physician, dentist, podiatrist, physician's assistant, or nurse practitioner for any drugs (including over-the-counter drugs) and supplies for which Medicaid payment is claimed."

MMIS Provider Manual for Pharmacy Version 2004-1, Section 2.2.6

In 1 instance, the prescriber's signature was missing on the prescription/fiscal order. This resulted in a sample overpayment of \$19.50 (Exhibit V).

Total sample overpayments for this audit amounted to \$6,985.44.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below. If you decide to repay the total sample overpayment amount of \$6,985.44, one of the following repayment options must be selected within 20 days from the date of this letter.

OPTION #1: Make 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 and be sent with the attached Remittance Advice to:


 New York State Department of Health
 Medicaid Financial Management, B.A.M.
 GNARESP Corning Tower, Room 2739
 File # 09-5360
 Albany, New York 12237-0048

OPTION #2: Enter into a repayment agreement with the Office of the Medicaid Inspector General. 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%. If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, the OMIG will impose a 15% withhold after 20 days until the agreement is established.

Furthermore, the OMIG may require financial information from you to establish the terms of the repayment agreement. If additional information is requested, the OMIG must receive the information within 30 days of the request or a 50% withhold will be imposed. OMIG acceptance of the repayment agreement is based on your repaying the Medicaid overpayment as agreed. The OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. The OMIG will notify you no later than 5 days after initiating such action. If you wish to enter into a repayment agreement, you must forward your written request within 20 days to the following:

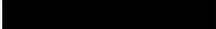
Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204



If within 20 days, you fail to make full payment or contact the OMIG to make repayment arrangements, the OMIG will establish a withhold equal to 50% of your Medicaid billings to recover payment and liquidate the total sample overpayment amount, interest and/or penalty, not barring any other remedy allowed by law. The OMIG will provide notice to you no later than 5 days after the withholding of any funds. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against the amount owed.

If you choose not to settle this audit through repayment of the total sample overpayment amount, 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, New York 12204

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

Issues you may raise shall be limited to those issues relating to determinations contained in the final audit report. Your hearing request may not address issues regarding the methodology used to determine the rate, or any issue that was raised at a proceeding to appeal a rate determination.

At the hearing you have the right to:

- a) be represented by an attorney or other representative, or to represent yourself;
- b) present witnesses and written and/or oral evidence to explain why the action taken is wrong; and
- c) cross examine witnesses of the Department of Health and/or the OMIG.

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid Program, take action where appropriate, and recover monies owed through the initiation of a civil lawsuit or other legal mechanisms including but not limited to the recovery of state tax refunds pursuant to Section 206 of the Public Health Law and Section 171-f of the State Tax Law.

Should you have any questions, please contact [REDACTED] at [REDACTED].

Thank you for the cooperation and courtesy extended to our staff during this audit.

Sincerely,

[REDACTED]

Division of Medicaid Audit, Buffalo
Office of the Medicaid Inspector General

[REDACTED]
Enclosure
Ver-2.0
Fin-3/19/13

**NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE**

NAME AND ADDRESS OF AUDITEE

██████████
Grant Pharmacy, Inc.
1340 Edward L. Grant Highway
Bronx, NY 10452

AMOUNT DUE: \$6,985.44

PROVIDER ID # ██████████

AUDIT # 09-5360

AUDIT	<input checked="" type="checkbox"/>	PROVIDER
	<input type="checkbox"/>	RATE
	<input type="checkbox"/>	PART B
TYPE	<input type="checkbox"/>	OTHER:

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 check to:

██████████
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
File #09-5360
Albany, New York 12237-0048

Thank you for your cooperation.

**GRANT PHARMACY INC.
PHARMACY SERVICES AUDIT
AUDIT #09-5360
AUDIT PERIOD: 01/01/04 – 12/31/08**

Summary of Findings

Finding Description	Recipients	Services	Disallowance	Exhibit
Ordering Prescriber Conflicts with Claim Prescriber	35	44	\$6,866.46	II
Pharmacy Billed in Excess of Prescribed Quantity	1	1	\$50.70	III
Missing Prescription	1	1	\$48.78	IV
Prescriber's Signature Missing on Prescription/Fiscal Order	1	1	\$19.50	V
TOTALS	38	47	\$6,985.44	

GRANT PHARMACY INC

MMIS # / NPI #: [REDACTED]

Audit #: 09-5360

Ordering Prescriber Conflicts with Claim Prescriber

Sample #	Date of Service	Formulary Code	Amount Disallowed
1	04/01/05	54838010440	\$2.70
7	05/03/05	00168015431	\$2.95
14	08/12/05	00185435001	\$7.17
15	08/22/05	00126027116	\$9.66
22	10/05/05	00677007110	\$0.15
24	11/07/05	58177022204	\$68.19
26	11/18/05	00093519974	\$7.86
31	12/19/05	00182443926	\$2.64
32	12/29/05	00172290880	\$5.19
33	01/09/06	00003363112	\$782.56
39	02/24/06	00378210005	\$30.69
48	06/15/06	00904530920	\$11.76
56	08/28/06	00004038039	\$2,012.11
60	09/22/06	00182443926	\$2.64
64	01/12/07	00378023110	\$6.67
79	05/11/07	00173074200	\$788.14
82	05/24/07	00378207501	\$22.67
83	05/29/07	50419040203	\$50.54
85	06/05/07	A4206	\$11.40
86	06/06/07	65162039811	\$0.39
94	09/10/07	00182106105	\$0.95
95	09/14/07	00456201001	\$80.24

GRANT PHARMACY INC

MMIS # / NPI #: [REDACTED]

Audit #: 09-5360

Ordering Prescriber Conflicts with Claim Prescriber

Sample #	Date of Service	Formulary Code	Amount Disallowed
97	09/24/07	00781507701	\$9.69
99	10/01/07	59762311001	\$103.29
100	10/05/07	00173056504	\$600.11
116	03/08/08	59930156001	\$20.56
133	08/16/08	65862000905	\$9.36
135	09/16/08	00182443926	\$2.64
145	11/14/08	00603221321	\$5.81
153	12/26/03	00472003616	\$11.41
155	01/27/04	00173047001	\$281.61
156	01/30/04	61958040101	\$404.78
163	04/14/04	63653117101	\$121.61
164	04/28/04	00071015723	\$102.48
165	04/29/04	00378207601	\$32.54
166	05/05/04	00173047001	\$295.25
171	06/02/04	00071053523	\$39.38
173	07/06/04	50111056301	\$20.87
174	08/06/04	00025152531	\$167.92
176	08/21/04	00182442810	\$1.51
182	10/21/04	00034181025	\$23.05
186	12/09/04	60505019001	\$25.84
192	01/31/05	00173059500	\$630.70

GRANT PHARMACY INC

MMIS # / NPI #: [REDACTED]

Audit #: 09-5360

Ordering Prescriber Conflicts with Claim Prescriber

Sample #	Date of Service	Formulary Code	Amount Disallowed
196	02/11/05	63459040401	\$48.78
Total Services:	44		\$6,866.46

GRANT PHARMACY INC

MMIS # / NPI #: [REDACTED]

Audit #: 09-5360

Pharmacy Billed in Excess of Prescribed Quantity

Sample #	Date of Service	Formulary Code	Amount Disallowed
106	11/07/07	B4160	\$50.70
Total Services:	1		\$50.70

GRANT PHARMACY INC

MMIS # / NPI #: [REDACTED]

Audit #: 09-5360

Missing Prescription

Sample #	Date of Service	Formulary Code	Amount Disallowed
30	12/14/05	00069306030	\$48.78
Total Services:			1
			\$48.78

GRANT PHARMACY INC

MMIS # / NPI #: [REDACTED]

Audit #: 09-5360

Prescriber's Signature Missing on Prescription/Fiscal Order

Sample #	Date of Service	Formulary Code	Amount Disallowed
160	02/16/04	59930156001	\$19.50
Total Services:		1	\$19.50