State of New York
Office of the Medicaid Inspector General

Review of Mercy Hospital of Buffalo Claims for Newborn Birth Services

Final Audit Report
Audit #: 12-5357

James C. Cox
Medicaid Inspector General

STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

April 24, 2013

[redacted]
Mercy Hospital of Buffalo
515 Abbott Rd. Suite 508
Buffalo, NY 14220

Re: Final Audit Report
Audit #: 12-5357
Provider ID #: [redacted]

Dear [redacted]

Enclosed is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report entitled "Review of Mercy Hospital of Buffalo (Facility) Claims for Newborn Birth Services."

In accordance with Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York (18 NYCRR) Section 517.6, the attached Final Audit Report represents the final determination on the issues found during the OMIG's review.

After reviewing the Facility's January 25, 2013 response to OMIG's December 13 2012 Draft Audit Report, OMIG has reduced the Draft Audit Report disallowance to $3,267.21 in the Final Audit Report. A detailed explanation can be found in the audit findings section.

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 12-5357 in all correspondence.

Sincerely,

[redacted]
Bureau of Managed Care Audit & Provider Review
Division of Medicaid Audit
Office of the Medicaid Inspector General

Enclosure
Certified Mail Number [redacted]
Return Receipt Requested

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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

The Office of the Medicaid Inspector General's vision is to be the national leader in promoting and protecting the integrity of the Medicaid program.

Background, Objective, and Audit Scope

Background

The New York State Department of Health (DOH) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an 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 the Department of Health (Titles 10, 14 and 18 of the New York Codes Rules and Regulations), the Department of Health's Medicaid Provider Manuals and *Medicaid Update* publications.

An infant whose mother is in receipt of Medicaid at the time of the infant's birth is entitled to Medicaid for the first 12 months from their date of birth. If a mother is enrolled in a managed care plan, the newborn becomes a member of that same plan, and the hospital is required to bill the plan directly for costs associated with the newborn's birth using the newborn's client identification number. Exceptions to this billing routine occur when the newborn weighs less than 1200 grams, is determined eligible for the SSI related category, or the mother is enrolled in certain special needs or a partial capitation plan. Section 3.9 of the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract) also provides for a supplemental newborn capitation payment be made to a Managed Care Organization (Plan) after the Plan makes payment to the hospital for the birth/delivery.

Objective

The objective of our audit was to assess Mercy Hospital of Buffalo's (Facility) adherence to applicable laws, regulations, rules and policies governing the New York State Medicaid program and to verify that:

- the Facility sought reimbursement from liable third parties;
- claims for payment were submitted in accordance with applicable rules and requirements.

Audit Scope

A review of newborn birth payment claims paid to the Facility by Medicaid for service dates included in the period beginning January 1, 2007 and ending December 31, 2010 was completed. The audit identified instances where both, the Facility received a fee-for-service Medicaid payment while the newborn was enrolled in managed care and the Plan received a supplemental newborn capitation payment; indicating the hospital was either eligible for or did receive a payment from the Plan related to the newborn's birth.

Audit Findings

The OMIG issued a Draft Audit Report to the Facility on December 13, 2012 that identified $3,843.55 in Medicaid overpayment due to the Facility billing Medicaid for birth services rendered to newborns during a period when the newborn was enrolled in managed care and should have been billed to their Plan; a violation of §540.6 requirements. The Facility's January 25, 2013 written response (Attachment I) to the Draft Audit Report agreed with the disallowed services/claim identified in the Draft Audit Report.

The OMIG has determined that the Facility is entitled to a GME payment of $576.34 related to the disallowed services/claim (Attachment II). As a result, the overpayment has been adjusted to reflect this entitlement, and the total overpayment in the Final Audit Report is reduced from $3,843.55 to $3,267.21. Pursuant to 18 NYCRR Parts 517 and 518, OMIG, on behalf of DOH, may recover such 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 was calculated on the overpayment identified in this Final Audit Report using the Federal Reserve Prime Rate from the date of overpayment through the date of the Draft Audit Report, December 13, 2012. For the net overpayment identified in this audit, OMIG has determined that accrued interest of $334.85 (Attachment II) is now owed.

Based on this determination, the total amount due to DOH, as defined in 18 NYCRR Section 518.1 is $3,602.06 (Attachment II), inclusive of interest. Subsequent to the issuance of the Draft Audit Report, the Facility adjusted the disallowed claims totaling $3,267.21. As a result, repayment of $334.85 is now due to the New York State Department of Health.

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 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** with audit number included 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
Albany, New York 12237-0016

Option #2: Enter into a repayment agreement with OMIG to have the overpayments applied against your future Medicaid payments. 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, OMIG will impose a 15% withhold after 20 days until the agreement is established. OMIG may require financial information from you to establish the terms of the repayment agreement. If additional information is requested, 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. OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. 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 OMIG to make repayment arrangements, OMIG will establish a withhold equal to 50% of your Medicaid billings to secure payment and liquidate the overpayment amount, interest and/or penalty, not barring any other remedy allowed by law. 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.

Hearing Rights

The Facility 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 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 Facility 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
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 [redacted] Office of Counsel, at [redacted]

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;
c) Cross examine witnesses of the DOH and/or OMIG; and
d) Have an interpreter if you do not speak English or are deaf.

If you have any questions regarding the above, please contact [redacted] at [redacted] or email at [redacted]

State of New York
Office of the Medicaid Inspector General
Remittance Advice

Mercy Hospital of Buffalo
515 Abbott Rd. Suite 508
Buffalo, NY 14220

Provider ID [redacted]

Audit #12-5357

Audit Type
- ☐ **Managed Care**
- ☒ **Fee-for-Service**
- ☐ **Rate**

Amount Due: $334.85

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:

[redacted]
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
File #12-5357
Albany, New York 12237-0016