NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF WELLCARE OF NEW YORK, INC RETROACTIVE DISENROLLMENT DUE TO PLACEMENT IN RESIDENTIAL/LONG TERM HEALTH CARE FACILITY DATES OF PLACEMENT FROM JANUARY 1, 2011 THROUGH DECEMBER 31, 2011

FINAL AUDIT REPORT

James C. Cox
Medicaid Inspector General
April 8, 2013

OFFICE OF THE MEDICAID INSPECTOR GENERAL

www.omig.ny.gov

The mission of the Office of the Medicaid Inspector General (OMIG), as mandated by New York Public Health Law § 31 is to preserve 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.

DIVISION OF MEDICAID AUDIT

The Division of Medicaid Audit professional staff conducts audits and reviews of Medicaid providers to ensure compliance with program requirements and, where necessary, to recover overpayments. These activities are done to monitor the cost-effective delivery of Medicaid services for prudent stewardship of scarce dollars; to ensure the required involvement of professionals in planning care to program beneficiaries; safeguard the quality of care, medical necessity and appropriateness of Medicaid services provided; and, to reduce the potential for fraud, waste and abuse.

DIVISION OF MEDICAID INVESTIGATIONS

The Division of Medicaid Investigations (DMI) investigates potential instances of fraud, waste, and abuse in the Medicaid program. DMI deters improper behavior by inserting covert and overt investigators into all aspects of the program, scrutinizing provider billing and services, and cooperating with other agencies to enhance enforcement opportunities. Disreputable providers are removed from the program or prevented from enrolling. Recipients abusing the system are not removed from this safety net, but their access to services is examined and restricted, as appropriate. DMI maximizes cost savings, recoveries, penalties, and improves the quality of care for the state's most vulnerable population.

DIVISION OF TECHNOLOGY AND BUSINESS AUTOMATION

The Division of Technology and Business Automation will continue to support the data needs for the OMIG in the form of audit and investigative support, data mining and analysis, system match and recovery, through the use of commercial data mining products and procurement of expert service consultants.

OFFICE OF COUNSEL TO THE MEDICAID INSPECTOR GENERAL

The Office of Counsel to the Medicaid Inspector General promotes the OMIG's overall statutory mission through timely, accurate and persuasive legal advocacy and counsel.

TABLE OF CONTENTS

	PAGE
BACKGROUND	1
PURPOSE AND SCOPE	2
FINDINGS	2
ATTACHMENTS AND SCHEDULES	
ATTACHMENT I – Provider Response	
ATTACHMENT II – Voided Post-Draft / Pre-Final	
ATTACHMENT III – Final Report Overpayments	

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 8, 2013

[redacted]
Wellcare of New York, Inc.
110 Fifth Avenue
New York, NY 10011

Re: Final Audit Report
Audit # 12-7462
Provider #[redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid monthly capitation payments made to Wellcare of New York, Inc. (Plan) that were determined to be recoverable based on the enrollee's retroactive disenrollment from the Plan and permanent placement into a Residential/Long Term Health Care Facility. In accordance with the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract and Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR), this report represents the final determination regarding capitation payments made on behalf of enrollees retroactively disenrolled due to placement in a Residential/Long Term Health Care Facility found during the OMIG's review.

After reviewing the Plan's March 13, 2013 response to OMIG's February 22, 2013 Draft Audit Report, your comments have confirmed the audit findings. As a result, the findings in the Final Audit Report remain unchanged to those cited in the Draft Audit Report.

BACKGROUND

The New York State Department of Health (SDOH) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an entity within SDOH, the 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 and 18 of NYCRR), the regulations of the Office of Mental Health (Title 14 of NYCRR), and the Department of Health's Medicaid Provider Manuals, *Medicaid Update* publications and the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

Pursuant to Section 3.6 of the Contract (Compensation – State Department of Health Right to Recover Premiums) and Appendix H, the OMIG on behalf of SDOH, has the right to recover premiums paid to the Plan for enrollees listed on the monthly roster who are later determined to have been ineligible for the entire applicable payment month.

PURPOSE AND SCOPE

The purpose of the audit was to identify instances where the Plan received a capitation payment from Medicaid and subsequently the enrollee was retroactively disenrolled for the entire payment month following permanent placement in a Residential/Long Term Health Care Facility. The scope of the audit includes enrollees permanently placed in a Residential/Long Term Health Care Facility for the period from January 1, 2011 to December 31, 2011.

FINDINGS

OMIG received a response from the Plan on March 13, 2013 agreeing to the findings in the February 22, 2013 Draft Audit Report (Attachment I). As a result, the findings in the Final Audit Report remain unchanged to those cited in the Draft Audit Report. As stated in the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums) and Appendix H and 18 NYCRR Parts 517 and 518, the OMIG has a right to recover overpayments paid to the Plan for enrollees listed on the monthly roster who are later determined to have been ineligible for the entire applicable payment month.

The total amount of overpayment, as defined in 18 NYCRR § 518.1(c) is $26,087.84. Subsequent to the issuance of the Draft Audit Report, the Plan voided claims in the amount of $26,087.84 (Attachment II). Therefore, there is no balance due the New York State Department of Health (Attachment III).

PROVIDER 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 report 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
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 Department of Health and/or the 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 via e-mail at [redacted] Thank you.

Sincerely,

[redacted]

Bureau of Managed Care Audit & Provider Review
Office of the Medicaid Inspector General

CERTIFIED MAIL # [redacted]
RETURN RECEIPT REQUESTED