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

DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

August 3, 2010

Town Total Nutrition Inc.
Administrator
6 East 32nd Street
New York, New York 10016

FINAL AUDIT REPORT
Audit #2010Z09-029D
Provider [redacted]

Dear Administrator:

The New York State Office of the Medicaid Inspector General (the "OMIG") completed an audit of Medicaid claims paid for Durable Medical Equipment (DME) provided to residents in skilled nursing facilities. In accordance with Section 517.5 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 on issues found during the OMIG's review.

Since you did not submit any documentation in response to the OMIG's June 21, 2010 Draft Audit Report, the findings are unchanged. A detailed Final Report, along with supporting exhibits, is appended to this notice.

Based on this determination, restitution of the overpayments as defined in 18 NYCRR 518.1 is required in the amount of $4,136.83.

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 report. The check should be made payable to the New York State Department of Health and be sent with the enclosed Remittance Advice form, signed and dated, to:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
Albany, New York 12237

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 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 report, the OMIG will impose a 15% withhold after 20 days until the agreement is established. 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:

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

Do not submit claim voids or adjustments in response to this Final Audit Report.

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 secure payment and liquidate the 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.

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 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 you wish to request a hearing, the request must be submitted in writing to:

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

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.

Questions concerning this audit may be directed to [redacted] at [redacted]

Sincerely,

[redacted]

Bureau of Business Intelligence
Office of the Medicaid Inspector General

Enclosure

CERTIFIED MAIL # [redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

TOWN TOTAL NUTRITION INC.
6 EAST 32nd STREET
NEW YORK, NEW YORK 10016

AMOUNT DUE: $4,136.83

Provider [redacted]

AUDIT #2010Z09-029D

AUDIT TYPE	**[X] PROVIDER**
	[ ] RATE
	[ ] PART B
	[ ] 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:

[redacted]
Medicaid Financial Management
New York State Department of Health
GNARESP Corning Tower, Room 1237
File #2010Z09-029D
Albany, New York 12237

5. If the provider number shown above is incorrect, please enter the correct number below.

CORRECT PROVIDER NUMBER

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

FINAL REPORT

TOWN TOTAL NUTRITION INC.
6 EAST 32nd STREET
NEW YORK, NEW YORK 10016

DURABLE MEDICAL EQUIPMENT
#2010Z09-029D

ISSUED AUGUST 3, 2010

BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (DOH) is responsible for the administration of the Medicaid program. As an independent office within DOH, the OMIG conducts audits and reviews of providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at ensuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in NY Public Health Law, NY Social Services Law, regulations of the Departments of Health, [Titles 10 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York] and the Medicaid Provider Manuals.

Under Section 505.5(d)(1)(iii) of Title 18 of the New York Code, Rules and Regulations, the Department of Health establishes all-inclusive skilled nursing facility (SNF) rates that cover the costs of supplies and equipment provided to Medicaid recipients who are in a skilled nursing facility. Additionally, the Medicaid Provider Manual for Residential Health Services requires skilled nursing facilities to provide residents with non-prescription drugs, medical/surgical supplies, and general standard and customized medical equipment. When Medicaid pays for such DME claims for a SNF resident, it is paying twice for the same DME product: first when it pays the SNF rate and again when it pays the DME provider's separate claim. This audit identified Medicaid billings by DME providers that should have been billed to and paid by the SNF.

To accomplish this, DME claims with payment dates from January 1, 2006 through December, 31, 2008 were reviewed.

DETAILED FINDINGS

The detailed finding of our audit is as follows:

1. Medicaid Inappropriately Billed for Durable Medical Equipment Provided to Residents in a Skilled Nursing Facility

Regulations state: "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)

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3(i)

Regulations state: "Payment will not be made for items provided by a facility or organization when the cost of these items is included in the rate."

18 NYCRR 505.5 (d)(1)(iii)

Policy states: "It is the dispensing provider's responsibility to verify with the facility whether the item is included in the facility's Medicaid rate."

EMedNY Provider Manual for DME
Version 2004-1, Section III

Policy states: "Claims for durable medical equipment, medical/surgical supplies, prosthetic and orthotic appliances and devices, oxygen and enteral formulae provided to a recipient in a residential health care facility whose Medicaid rate includes the cost of such items, will be denied."

EMedNY Provider Manual for DME
Version 2004-1, Section III

Policy states: ". . . a SNF/HRF is required to provide residents with non-prescription drugs, medical/surgical supplies, and general standard and customized medical equipment."

EMedNY Provider Manual for Residential Health
Version 2006-1, Section II

Exhibit I is a list of all claims that contain DME billing to Medicaid during a Medicaid patient's stay in a SNF. These claims should have been submitted to the SNF provider for payment. Submitting these claims to Medicaid resulted in an overpayment of $3,623.69.

DETERMINATION

In accordance with 18 NYCRR 518.4, interest may be collected on any overpayments identified in this audit and will accrue at the current rate from the preliminary determination of the overpayment. For the overpayments identified in this audit, the OMIG has determined that accrued interest totals $513.14.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR 518.1(c) is $4,136.83, inclusive of interest. Restitution of $4,136.83 is due the New York State Department of Health.