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

August 15, 2013

TLS Pharmacy Corp.
[redacted]
2155 Middle Country Road
Centereach, NY 11720-3320

Final Audit Report
County Demonstration Project – Suffolk Co.
Audit #10-2706
Provider ID [redacted]

Dear [redacted]:

This letter will serve as our final audit report of the recently completed review of payments made to TLS Pharmacy Corp. under the New York State Medicaid Program.

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 TLS Pharmacy Corp. for pharmacy services paid by Medicaid for Suffolk County recipients from January 1, 2005, through December 31, 2008, was recently completed. During the audit period, $4,000,575.07 was paid for 55,563 services rendered. This review consisted of a random sample of 200 services with Medicaid payments of $11,168.60. 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.

TLS Pharmacy Corp.'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 $942.82.

The statistical sampling methodology employed allows for extrapolation of the sample findings to the universe of cases (18 NYCRR Section 519.18). The adjusted mean per unit point estimate of the amount overpaid is $24,057. The adjusted lower confidence limit of the amount overpaid is $9,817. We are 95% certain that the actual amount of the overpayment is greater than the adjusted lower confidence limit (Exhibit I). This audit may be settled through repayment of the adjusted lower confidence limit amount of $9,817.

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 revised draft audit report dated September 12, 2012. The attached Bridge Schedule indicates any changes to the findings as a result of your response.

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 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 15 instances pertaining to 15 patients, the ordering prescriber conflicts with the claim prescriber. This resulted in a sample overpayment of $489.38 (Exhibit II). For this category of findings, OMIG will disallow only the actual amount of the sample overpayment and will not extrapolate the sample findings to the universe of services.

2. Missing Follow-Up Hard Copy Order for Medical Supplies and/or Enteral Nutrition

Regulations state: "Medical/surgical supplies means items for medical use other than drugs, prosthetic or orthotic appliances, durable medical equipment, or orthopedic footwear which have been ordered by a practitioner in the treatment of a specific medical condition and which are usually: (i) consumable; (ii) nonreusable; (iii) disposable; (iv) for a specific rather than incidental purpose; and (v) generally have no salvageable value." *18 NYCRR Section 505.5(a)(2)*

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 also state: "All durable medical equipment, medical/surgical supplies, orthotic and prosthetic appliances and devices, and orthopedic footwear may be furnished only upon a written order of a practitioner." *18 NYCRR Section 505.5(b)(1)*

Medicaid policy states: "Medical/surgical supplies can only be obtained by presenting a signed, written order (fiscal order) from a qualified prescriber."

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

Medicaid policy states that "medical supplies can only be obtained by presenting a signed written order from a qualified prescriber. . . ."

MMIS Provider Manual for Pharmacy Version 2004-1, Section 2.2.4

In 6 instances pertaining to 5 patients, a signed written order, as a follow-up to a telephone or fax order for medical supplies or enteral nutrition, was missing. This resulted in a sample overpayment of $369.94 (Exhibit III). For this category of findings, OMIG will disallow only the actual amount of the sample overpayment and will not extrapolate the sample findings to the universe of services.

3. **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 states: "All prescriptions and fiscal orders must bear . . . [the] signature of the prescriber who has written or initiated the prescription or fiscal order."
NYS Medicaid Program Pharmacy Manual Policy Guidelines Version 2006-1, Section I

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 2 instances pertaining to 2 patients, the prescriber's signature was missing on the prescription/fiscal order. This resulted in a sample overpayment of $30.13 (Exhibit IV).

4. Missing Fiscal Order

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 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: "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: "All . . . medical/surgical supplies, . . . may be furnished only upon a written order of a practitioner." *18 NYCRR Section 505.5(b)(1)*

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)

Medicaid policy states: "Non-prescription drugs, also known as over-the-counter (OTC) drugs, can only be obtained by presenting a signed written order (fiscal order) from a qualified prescriber . . . Medical/surgical supplies can only be obtained by presenting a signed, written order (fiscal order) from a qualified prescriber."
NYS Medicaid Program Pharmacy Manual Policy Guidelines Version 2006-1, Section I

In 2 instances pertaining to 2 patients, an original fiscal order was missing. This resulted in a sample overpayment of $18.44 (Exhibit V).

5. Pharmacy Billed for Different Drug Than Ordered

State law establishes: "Any person, who . . . substitutes or dispenses a different article for or in lieu of any article prescribed, ordered, or demanded, except where required pursuant to section sixty-eight hundred sixteen-a of this article . . . or otherwise deviates from the terms of the prescription, order or demand by substituting one drug for another, except where required pursuant to section sixty-eight hundred sixteen-a of this article, is guilty of a misdemeanor."
Education Law Article 137 Section 6816.1.a

The Rules of the Board of Regents state that unprofessional conduct in the practice of pharmacy shall include "dispensing a written prescription which does not bear . . . the name, strength, if applicable, and the quantity of the drug prescribed; . . . ."

8 NYCRR Section 29.7(a)(1)

The Rules of the Board of Regents state that unprofessional conduct in the practice of pharmacy shall also include "using or substituting without authorization one or more drugs in the place of the drug or drugs specified in a prescription." *8 NYCRR Section 29.7(a)(5)*

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 for Schedule II and certain other substances: "A practitioner may orally authorize a pharmacist to change information on an official New York State prescription form. This procedure shall not apply to the practitioner's signature, date the prescription was signed by the practitioner, drug name or name of the ultimate user. The pharmacist shall write the date he or she received the oral authorization on the back of the prescription, the reason for the change and his or her signature. The pharmacist shall also indicate the change on the face of the prescription and initial the change." *10 NYCRR Section 80.67(j)*

Regulations state for Schedule III, IV and V substances: "A practitioner may orally authorize a pharmacist to change information on a controlled substance prescription. This procedure shall not apply to the practitioner's signature date the prescription was signed by the practitioner, drug name or name of the ultimate user. The pharmacist shall write the date he or she received the oral authorization on the back of the prescription, reason for the change and his or her signature. The pharmacist shall also indicate the change on the face of the prescription and initial the change." *10 NYCRR Section 80.69(k)*

In 5 instances pertaining to 5 patients, the pharmacy billed for a drug different than the drug ordered. This resulted in a sample overpayment of $10.46 (Exhibit VI).

6. Invalid Prescription/Fiscal Order

Regulations state: "...In addition to the requirements of section sixty-eight hundred ten of the education law or article thirty-three of this chapter, all prescriptions written in this state by a person authorized by this state to issue such prescriptions shall be on serialized official New York state prescription forms provided by the department..."

NYS Public Health Law Article 1 Title 2 Section 21

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: "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: "A telephone order must be recorded by the pharmacy in the format required by subdivision (4) of section 6810 of the Education Law, recording the time of the call and the initials of the person taking the call and the dispenser, prior to dispensing the drug..."

18 NYCRR Section 505.3(b)(5)

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)

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, the prescription/fiscal order was invalid. In 1 instance, the prescription/fiscal order was postdated. This resulted in a sample overpayment of $9.13 (Exhibit VII).

7. Pharmacy Billed for Different Strength than Ordered

State law establishes: "Any person, who . . . substitutes or dispenses a different article for or in lieu of any article prescribed, ordered, or demanded, except where required pursuant to section sixty-eight hundred sixteen-a of this article . . . or otherwise deviates from the terms of the prescription, order or demand by substituting one drug for another, except where required pursuant to section sixty-eight hundred sixteen-a of this article, is guilty of a misdemeanor."

Education Law Article 137 Section 6816.1.a

The Rules of the Board of Regents state that unprofessional conduct in the practice of pharmacy shall include: "Dispensing a written prescription which does not bear the name, address and age of the patient for whom it is intended; the date on which it was written; the name, strength, if applicable, and the quantity of the drug prescribed; directions for use, if applicable; and, the name, address, telephone number, profession and signature of the prescriber; provided that the pharmacist may record on the prescription the address and age of the patient, the strength and quantity of the drug prescribed, the directions for use and the prescriber's address, telephone number and profession if these are missing or unclear..."

8 NYCRR Section 29.7(a)(1)

The Rules of the Board of Regents state that unprofessional conduct in the practice of pharmacy shall include "using or substituting without authorization one or more drugs in the place of the drug or drugs specified in a prescription." *8 NYCRR Section 29.7(a)(5)*

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, for Schedule II and certain other substances, that: "A practitioner may orally authorize a pharmacist to change information on an official New York State prescription form. This procedure shall not apply to the practitioner's signature, date the prescription was signed by the practitioner, drug name or name of the ultimate user. The pharmacist shall write the date he or she received the oral authorization on the back of the prescription, the reason for the change and his or her signature. The pharmacist shall also indicate the change on the face of the prescription and initial the change." *10 NYCRR Section 80.67(j)*

Regulations state, for Schedule III, IV and V substances, that: "A practitioner may orally authorize a pharmacist to change information on a controlled substance prescription. This procedure shall not apply to the practitioner's signature, date the prescription was signed by the practitioner, drug name or name of the ultimate user. The pharmacist shall write the date he or she received the oral authorization on the back of the prescription, reason for the change and his or her signature. The pharmacist shall also indicate the change on the face of the prescription and initial the change." *10 NYCRR Section 80.69(k)*

In 2 instances pertaining to 2 patients, the pharmacy billed for a different strength than ordered. This resulted in a sample overpayment of $5.60 (Exhibit VIII).

8. 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 therefor, 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)

Medicaid policy states: "Prescription drugs can be obtained by presenting a signed written order from a qualified prescriber."

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

In 1 instance, an original prescription was missing. This resulted in a sample overpayment of $5.19 (Exhibit IX).

9. **Prescription/Fiscal Order Refilled More Than 180 Days After It Has Been Initiated By The Prescriber**

Regulations state: "No written order for drugs may be refilled more than six months after the date of issuance. . . ." *18 NYCRR Section 505.3(d)(2)*

Regulations state: "All . . . medical/surgical supplies . . . may be furnished only upon a written order of a practitioner." An order cannot be refilled more than 180 days from the original date ordered. *18 NYCRR Section 505.5(b)(1) and (4)(iii)*

Medicaid policy states: "No prescription or fiscal order for a drug or supply may be refilled 180 days after it has been initiated by the prescriber."

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

In 1 instance, a prescription or fiscal order was refilled more than 180 days after the date initiated by the prescriber. This resulted in a sample overpayment of $4.55 (Exhibit X).

Total sample overpayments for this audit amounted to $942.82.

Additional reasons for disallowance exist regarding certain findings. These findings are identified in Exhibit XI.

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 adjusted lower confidence limit amount of $9,817, one of the following repayment options must be selected within 20 days from the date of this letter:

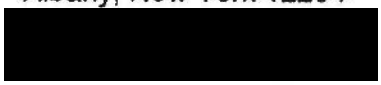
OPTION #1: Make full payment by check or money order within 20 days of the date of the final audit report. The check should be made payable to the New York State Department of Health and be sent with the attached Remittance Advice to:

New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
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

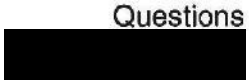


If within 20 days, you fail to make full payment or contact the OMIG to make repayment arrangements, the OMIG will establish a withhold equal to 50% of your Medicaid billings to recover payment and liquidate the adjusted lower confidence limit amount, interest and/or penalty, not barring any other remedy 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 adjusted lower confidence limit, you have the right to challenge these findings by requesting an administrative hearing where the OMIG would seek and defend the adjusted meanpoint estimate of $24,057. 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]

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-1.1
Fin-3/19/13

cc: [redacted]

FINAL DISPOSITION FOR SAMPLED SELECTIONS FROM DRAFT TO FINAL AUDIT REPORT

TLS PHARMACY CORP.
PHARMACY SERVICES AUDIT
AUDIT #10-2706
AUDIT PERIOD: 01/01/05-12/31/08

BRIDGE SCHEDULE

SAMPLE #	FINDING	DRAFT AMOUNT DISALLOWED	CHANGE	FINAL AMOUNT DISALLOWED
69	Missing Information from Prescription/Fiscal Order	$12.00	$12.00	$0.00
	TOTALS	$12.00	($12.00)	$0.00

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

TLS PHARMACY CORP.
[redacted]
2155 MIDDLE COUNTRY ROAD
CENTEREACH, NY 11720-3320

AMOUNT DUE: $9,817.00

PROVIDER ID [redacted]

AUDIT #10-2706

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]
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
File #10-2706
Albany, New York 12237-0048

Thank you for your cooperation.

EXHIBIT I

TLS PHARMACY CORP.
PHARMACY SERVICES AUDIT
AUDIT #10-2706
AUDIT PERIOD: 01/01/05 – 12/31/08

EXTRAPOLATION OF SAMPLE FINDINGS

Total Sample Overpayments	$ 942.82
Less Overpayments Not Projected*	(859.32)
Sample Overpayments for Extrapolation Purposes	$ 83.50
Services in Sample	200
Overpayments Per Sampled Service	$ 0.4175
Services in Universe	55,563
Meanpoint Estimate	$ 23,198
Add Overpayments Not Projected*	859
Adjusted Meanpoint Estimate	$ 24,057
Lower Confidence Limit	$ 8,958
Add Overpayments Not Projected*	859
Adjusted Lower Confidence Limit	$ 9,817

* The actual dollar disallowance for the "**Ordering Prescriber Conflicts with Claim Prescriber**" and "**Missing Follow-Up Hard Copy Order for Medical Supplies and/or Enteral Nutrition**" findings was subtracted from the total sample overpayment and added to the Meanpoint Estimate and the Lower Confidence Limit. The dollars associated with these findings were not used in the extrapolation.

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Ordering Prescriber Conflicts with Claim Prescriber

Sample #	Date of Service	Formulary Code	Amount Disallowed
15	3/29/2006	00168032346	$77.68
31	4/4/2006	45802011222	$45.95
90	6/26/2008	00591521610	$8.88
94	12/2/2005	00456201001	$71.51
105	10/19/2008	0000T4523	$4.99
118	9/22/2005	0000A6234	$28.45
131	4/10/2008	49884016401	$11.86
134	4/7/2006	59366285206	$46.46
153	4/3/2006	0000A4244	$1.12
169	10/24/2005	0000A4927	$4.55
171	10/11/2005	00168035730	$41.76
172	6/21/2005	0000A4927	$4.55
189	8/26/2006	11523716003	$19.38
192	11/1/2006	00555087702	$12.06
195	1/13/2007	60505254701	$110.18
Total Services:	**15**		**$489.38**

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Missing Follow-Up Hard Copy Order for Medical Supplies and/or Enteral Nutrition

Sample #	Date of Service	Formulary Code	Amount Disallowed
13	9/26/2005	0000A4554	$83.00
20	3/16/2005	0000A4927	$4.55
36	7/26/2005	0000T4522	$97.92
38	5/6/2006	0000A4554	$83.00
124	3/14/2007	0000T4523	$96.92
130	4/7/2006	0000A4927	$4.55
Total Services:	**6**		**$369.94**

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Prescriber's Signature Missing on Prescription/Fiscal Order

Sample #	Date of Service	Formulary Code	Amount Disallowed
44	7/21/2006	00258369601	$23.04
181	4/3/2007	00603516621	$7.09
Total Services:	**2**		**$30.13**

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Missing Fiscal Order

Sample #	Date of Service	Formulary Code	Amount Disallowed
149	12/22/2008	0000A4927	$3.55
162	6/10/2008	0000A6403	$14.89
Total Services:	**2**		**$18.44**

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Pharmacy Billed for Different Drug Than Ordered

Sample #	Date of Service	Formulary Code	Amount Disallowed
33	11/22/2005	49348023312	$2.48
70	11/4/2005	49348023312	$2.48
88	12/22/2005	49348023312	$2.48
133	2/14/2005	00182444001	$1.51
191	5/17/2005	00182444001	$1.51
Total Services:	**5**		**$10.46**

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Invalid Prescription/Fiscal Order

Sample #	Date of Service	Formulary Code	Amount Disallowed
156	1/30/2007	00406036001	$9.13
Total Services:	1		$9.13

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Pharmacy Billed for Different Strength Than Ordered

Sample #	Date of Service	Formulary Code	Amount Disallowed
132	4/19/2005	49348023312	$3.73
164	6/15/2005	49348023312	$1.87
Total Services:	**2**		**$5.60**

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Missing Prescription

Sample #	Date of Service	Formulary Code	Amount Disallowed
123	1/2/2007	00406036001	$5.19
Total Services:	1		$5.19

TLS PHARMACY CORP.

MMIS #: [redacted]

Audit #: 10-2706

Prescription/Fiscal Order Refilled More Than 180 Days After It Has Been Initiated by the Prescriber

Sample #	Date of Service	Formulary Code	Amount Disallowed
145	12/20/2006	0000A4927	$4.55
Total Services:	1		$4.55

EXHIBIT XI

TLS PHARMACY CORP.
PHARMACY SERVICES AUDIT
AUDIT #10-2706
AUDIT PERIOD: 01/01/05 – 12/31/08

ADDITIONAL FINDINGS PERTAINING TO SAMPLED ITEMS

Sample #	Primary Finding	Other Findings Pertaining to Sampled Item
153	Ordering Prescriber Conflicts with Claim Prescriber	Missing Follow Up Hard Copy Order for Medical Supplies and/or Enteral Nutrition