# NEW YORK STATE
# OFFICE OF THE MEDICAID INSPECTOR GENERAL

## REVIEW OF
## ST. LUKE'S ROOSEVELT HOSPITAL CENTER
## FAMILY PLANNING CHARGEBACK TO
## NETWORK PROVIDERS
## DATES OF SERVICE FROM JANUARY 1, 2009
## THROUGH DECEMBER 31, 2009

## FINAL AUDIT REPORT

**James C. Cox**
**Medicaid Inspector General**
**August 21, 2013**

# TABLE OF CONTENTS


| | PAGE |
|---|---|
| BACKGROUND, PURPOSE AND SCOPE | 1 |
| FINDINGS | 2 |
| PAYMENT OPTIONS | 2 |
| PROVIDER RIGHTS | 3 |
| REMITTANCE ADVICE | 5 |

ATTACHMENTS AND SCHEDULES

| | |
|---|---|
| ATTACHMENT I – | Contract between Affinity Health Plan, Inc. and St. Luke's Roosevelt Hospital |
| ATTACHMENT II – | Contract between Neighborhood Health Provider LLC St Luke's Roosevelt Hospital |
| ATTACHMENT III - | Paid Appropriate |
| ATTACHMENT IV - | 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

August 21, 2013

[redacted]
St. Luke's Roosevelt Hospital Center
111 Amsterdam Ave.
New York, NY 10025

Re: Final Audit Report
Audit # 13-2104
Provider #[redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (OMIG) performed an audit of Medicaid payments for family planning and reproductive health services paid to St. Luke's Roosevelt Hospital Center (Provider), on behalf of Medicaid beneficiaries while they were enrolled in Affinity Health Plan, Inc. or Neighborhood Health Providers LLC (Plans). In accordance with Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 517.6, this Final Audit Report represents the final determination on the issues found during the OMIG's review.

Subsequent to the issuance of the OMIG's May 1, 2013 Draft Audit Report, claims with specific carved-out rate codes for school-based health centers have been removed from the findings. As a result, the findings in the Final Audit Report have been adjusted from those cited in the Draft Audit Report, with overpayments, inclusive of interest, of $ 12,696.15.

## BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (the Department) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an entity within the Department, 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 by the New York Public Health Law, New York Social Services Law, the regulations of the Department of Health (Titles 10 and 18 of the NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR), 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).

Federal Medicaid law prohibits any restrictions to access by Medicaid recipients for family planning services. Accordingly, the Department requires that all participating managed care organizations (MCO) ensure individuals of childbearing age have access to the full range of family planning and reproductive health services from any qualified provider that undertakes to provide such services.

Pursuant to the Contract Appendix C, if the MCO chooses to receive a monthly capitation payment for covered services which includes family planning and reproductive services, the MCO is subsequently responsible to reimburse its network providers for these services provided to the MCO's Medicaid enrollees. Under these circumstances, the participating network provider is required to bill the MCO with whom the Provider has signed a network contract. This is also in accordance with 18 NYCRR 540.6(e) which explains the servicing provider's responsibility to ascertain the legal liability of third parties to pay for medical care and services.

The purpose of this audit was to ensure that the Provider was in compliance with 18 NYCRR 540.6(e) and the Contract Appendix C, and to identify Medicaid payments associated with family planning and reproductive health services that should not have been billed fee-for-service by the Provider, but rather reimbursed to the Provider by the Plans. The review period includes dates of service for January 1, 2009 through December 31, 2009.

## FINDINGS

During the course of the OMIG's family planning and reproductive health services claim review with the Plans, the OMIG received contractual documents from the Plans that verified the Provider had a participating provider agreement with the Plans to provide services to their enrollees between January 1, 2009 and December 31, 2009 (Attachments I and II). As a result of this contractual arrangement, the Plans are responsible for reimbursing the Provider for the family planning and reproductive health services provided to the Plans' enrollees during this time period. The Provider should have billed the Plans, not Medicaid. Subsequent to the issuance of the Draft Audit Report, claims with school-based health center rate codes, which are carved out of managed care, were removed from the project and deemed paid appropriate (Attachment III). These claims, totaling $ 5,195.78 (inclusive of interest), have been removed from the Final Audit Report findings, resulting in a total overpayment (inclusive of interest) of $ 12,696.15 (Attachments III and IV).

The Final Audit Report found that the Provider inappropriately billed Medicaid $ 11,297.35 for family planning and reproductive health services that were rendered to the Plan's enrollees between January 1, 2009 and December 31, 2009 (Attachment IV); a period the Provider had a participating provider contractual agreement with the Plan. As a result, NYCRR 540.6(e) requirements were not met.

In accordance with 18 NYCRR 518.4, interest may be collected and will accrue at the current rate from the date of the overpayment. For the overpayments identified in Attachment IV, the OMIG has determined that accrued interest of $1,398.80 is owed.

Based on this determination, the total amount of overpayment listed on Attachment IV, as defined in 18 NYCRR 518.1(c) is $12,696.15, inclusive of interest (Attachment IV). Repayment of $12,696.15 is due the New York State Department of Health.

## PAYMENT OPTIONS

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below.

**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:

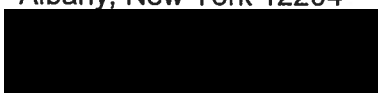
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
File #13-2104
Albany, New York 12237-0016

**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.

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 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.

**PROVIDER RIGHTS**

The Provider 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 the Provider wishes 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, the Provider may have a person represent the Provider or the Provider may represent itself. If the Provider chooses to be represented by someone other than an attorney, the Provider must supply along with the Provider's hearing request a signed authorization permitting that person to represent the Provider the hearing, the Provider may call witnesses and present documentary evidence on the Provider's behalf.

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid program, take action where appropriate, and recover any associated overpayments. If you have any questions regarding the above, please contact [redacted] or by email at [redacted] Thank you for your cooperation.

Sincerely,

[redacted]

Division of Medicaid Audit
Office of the Medicaid Inspector General

Enclosures

CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

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

| NAME AND ADDRESS OF AUDITEE | PROVIDER # | [redacted] |
|---|---|---|
| St Luke's Roosevelt Hospital Center<br>111 Amsterdam Ave.<br>New York, NY 10025 | AUDIT # | 13-2104 |
| | PROVIDER TYPE | ☐ Fee For Service<br>☐ Rate - LTC<br>☐ Rate - NH<br>X Managed Care<br>☐ Other |
| AMOUNT DUE: $ 12,696.15 | | |

**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
Albany, New York 12237-0016

*Thank you for your cooperation.*