# NEW YORK STATE
# OFFICE OF THE MEDICAID INSPECTOR GENERAL

# REVIEW OF
# DR. RONALD FENER
# DENTAL PAYMENTS FOR MEDICAID MANAGED CARE ENROLLEES
# JULY 1, 2012 – FEBRUARY 15, 2013

## FINAL AUDIT REPORT

**James C. Cox**
**Medicaid Inspector General**
**August 28, 2013**

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ATTACHMENTS

ATTACHMENT I – Provider Response to Draft Report
ATTACHMENT II – Cardswipe Results
ATTACHMENT III – Point of Service Eligibility Confirmation
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 28, 2013

Dr. Ronald Fener
38 Old Country Rd
New Rochelle, NY 10804-3412

Re: Final Audit Report
Audit # 13-2602
Provider #[redacted]

Dear Dr. Fener:

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid fee-for-service dental payments that were inappropriately made for managed care enrollees; these enrollees already had dental care included in their Managed Care Organization (MCO) benefit package. In accordance with 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 on the issues found during the OMIG's review.

## BACKGROUND

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 in 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) and the Department's Medicaid Provider Manuals, *Medicaid Update* publications, and the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

## OBJECTIVE AND SCOPE

### Audit Objective

The objective of this audit was to ensure that Dr. Ronald Fener (Provider) was in compliance with applicable Federal and State laws, regulations, rules and policies governing the New York State Medicaid Program and to verify whether dental service claims submitted were properly paid.

### Audit Scope

The review identified Medicaid payments made to dental providers after July 1, 2012 for services provided to individuals enrolled in a managed care organization that included dental services in the scope of benefit package.

## FINDINGS

A Draft Audit Report was issued May 29, 2013, identifying $1,011.00 in fee-for-service payments inappropriately made to the Provider for services covered under the managed care enrollee's benefit package with a MCO. In response to the Draft Audit Report the Provider submitted documentation contesting a portion of the claims on the basis that an eligibility response of 'MA-Eligible' was received when a card was swiped for one of the recipients identified on the Draft Audit Report (Attachment I). The submitted documentation was considered however a determination was made that the overpayment will remain the same, because multiple data sources show that the eligibility response generated on the date of service was 'Eligible-PCP' (Attachments II and III). As a result, the findings in the Final Audit Report remain unchanged to those cited in the Draft Audit Report (Attachment IV). As stated in the Contract, specifically Section 3.6 (*Compensation – State Department of Health Right to Recover Premiums*) and, Appendix H, as well as 18 NYCRR Parts 517 and 518, the OMIG, on behalf of the Department, has a right to recover overpayments paid for enrollees listed on the monthly roster.

The total amount of overpayment as defined in 18 NYCRR 518.1, is $1,011.00 which is due the New York State Department of Health (Attachment IV).

## 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 # 13-2602
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
[redacted]

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
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 the Office of Counsel at [redacted]

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

Attachment(s)

CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

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

| NAME AND ADDRESS OF AUDITEE | PROVIDER # [redacted] |
|---|---|
| Dr. Ronald Fener<br>38 Old Country Rd<br>New Rochelle, NY 10804-3412 | AUDIT # 13-2602 |
| | PROVIDER TYPE<br>☐ Fee For Service<br>☐ Rate - LTC<br>☐ Rate - NH<br>X Managed Care<br>☐ Other |
| AMOUNT DUE: $1,011.00 | |

## 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.*