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

December 17, 2010

NYU Downtown Hospital
[redacted]
170 William Street
New York, NY 10038-2612

FINAL AUDIT REPORT
Audit #2010Z27-009M
Provider [redacted]

Dear Provider:

The New York State Office of the Medicaid Inspector General (the "OMIG") completed an audit of clinic services paid to Medicaid patients under the Products of Ambulatory Care (PAC) rate structure. 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 November 4, 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 $77,174.08, inclusive of interest.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described as follows:

**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:

[redacted]
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 to have the overpayments applied against your future Medicaid payments. 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
[redacted]

**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.

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

**NYU Downtown Hospital**
**170 William Street**
**New York, New York 10038-2612**

**Provider** [redacted]

**AUDIT #2010Z27-009M**

| | |
|---|---|
| **AUDIT TYPE** | **[ X] PROVIDER** |
| | **[ ] RATE** |
| | **[ ] PART B** |
| | **[ ] OTHER:** |

**AMOUNT DUE: $77,174.08**

## 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 #2010Z27-009M**
**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

NYU DOWNTOWN HOSPITAL
170 WILLIAM STREET
NEW YORK, NEW YORK 10038-2612

PRODUCTS OF AMBULATORY CARE
#2010Z27-009M

ISSUED DECEMBER 17, 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.

PAC clinic rates are all-inclusive reimbursement rates associated with procedures, diagnosis and recipient age. General clinic visits are not allowable when PAC codes are submitted for payment. Further, ancillary testing and physician services are included in the all-inclusive rates and should not be billed fee for service. A review of your claims shows that Medicaid was inappropriately billed for ancillary services included in the facility's PAC rate.

To accomplish this, claims submitted for PAC services with payment dates from January 1, 2007 through June 30, 2010 were reviewed.

*Please note that due to the implementation of the National Provider Identifier (NPI) on September 1, 2008, there may be multiple Provider Identification Numbers associated with the Primary Provider Identification Number. The NPI is linked to the Primary Provider Identification Number. The Primary Provider Identification Number is used for correspondence and recoupment.*

## DETAILED FINDINGS

A copy of the supporting exhibits is enclosed with this Draft Audit Report. The exhibits detail each disallowed claim. The exhibits show the date the PAC service occurred and the subsequent ancillary service. For each claim, the ancillary service should not have been billed to Medicaid as it is included in the PAC rate. The exhibits are detailed in three categories:

### 1. Laboratory Services Billed Fee for Service That Are Included in the PAC Rate

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)*

Regulation 18 NYCRR 518.1(c) defines "overpayment" as "any amount not authorized to be paid under the medical assistance program, whether paid as the result of ...improper claiming, unacceptable practices, fraud, abuse or mistake" and provides for the recovery by OMIG of these overpayments.

*18 NYCRR 518.1(c)*

Regulations state: "For payments made pursuant to this section... reimbursement shall be based upon a uniform schedule with a discrete price set forth in subdivision (c) of this section."

*10NYCRR Section 86-4.37(a)*

Regulations state: "Provider services include diagnostic examinations, treatments, and ancillary services including significant diagnostic technologies."

*10 NYCRR Section 86-4.37(b)*

Regulations state: The prices established pursuant to this section shall provide full reimbursement for the following: (1) physician services... (3) all ancillary services including laboratory tests, diagnostic tests including professional interpretations...

*10 NYCRR Section 86-4.37(d)(1)(3)*

Laboratory services defined by procedure classification codes (listed in 10 NYCRR Section 86-4.37(c)) are included in the PAC rate structure and should not be billed fee for service. The PAC provider is responsible for reimbursing the laboratory for these costs.

Exhibit I is a list of laboratory services that should be included in the PAC rate structure. For each claim, a laboratory service ordered from a PAC visit was incorrectly billed to Medicaid. This resulted in an overpayment of $7,635.73.

**2. <u>Ordered Ambulatory Services (Other Than Lab) Billed Fee for Service That Are Included In the PAC Rate- Facility Billed</u>**

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)*

Regulation 18 NYCRR 518.1(c) defines "overpayment" as "any amount not authorized to be paid under the medical assistance program, whether paid as the result of ...improper claiming, unacceptable practices, fraud, abuse or mistake" and provides for the recovery by OMIG of these overpayments.

*18 NYCRR 518.1(c)*

Regulations state: "For payments made pursuant to this section... reimbursement shall be based upon a uniform schedule with a discrete price set forth in subdivision (c) of this section."

*10NYCRR Section 86-4.37(a)*

Regulations state: "Provider services include diagnostic examinations, treatments, and ancillary services including significant diagnostic technologies."

*10 NYCRR Section 86-4.37(b)*

Regulations state: "The prices established pursuant to this section shall provide full reimbursement for the following: (1) physician services... (3) all ancillary services including laboratory tests, diagnostic tests including professional interpretations...

*10 NYCRR Section 86-4.37(d)(1)(3)*

Ordered ambulatory services defined by procedure classification codes (listed in 10 NYCRR Section 86-4.37(c)) are included in the PAC rate structure and should not be billed fee for service. The PAC provider is responsible for reimbursing the ordered ambulatory service provider for these costs.

Exhibit II is a list of ordered ambulatory services that should be included in the PAC rate structure. For each claim, an ordered ambulatory service ordered from a PAC visit was incorrectly billed to Medicaid. This resulted in an overpayment of $18,173.32.

**3. <u>Ordered Ambulatory Services (Other Than Lab) Billed Fee for Service That Are Included In the PAC Rate- Physician Billed</u>**

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)*

Regulation 18 NYCRR 518.1(c) defines "overpayment" as "any amount not authorized to be paid under the medical assistance program, whether paid as the result of ...improper claiming, unacceptable practices, fraud, abuse or mistake" and provides for the recovery by OMIG of these overpayments.

*18 NYCRR 518.1(c)*

Regulations state: "For payments made pursuant to this section... reimbursement shall be based upon a uniform schedule with a discrete price set forth in subdivision (c) of this section."

*10NYCRR Section 86-4.37(a)*

Regulations state: "Provider services include diagnostic examinations, treatments, and ancillary services including significant diagnostic technologies."

*10 NYCRR Section 86-4.37(b)*

Regulations state: "The prices established pursuant to this section shall provide full reimbursement for the following: (1) physician services... (3) all ancillary services including laboratory tests, diagnostic tests including professional interpretations...

*10 NYCRR Section 86-4.37(d)(1)(3)*

Ordered ambulatory services (physician billed) defined by procedure classification codes (listed in 10 NYCRR Section 86-4.37(c)) are included in the PAC rate structure and should not be billed fee for service. The PAC provider is responsible for reimbursing the ordered ambulatory service provider for these costs.

Exhibit III is a list of ordered ambulatory services (physician billed) that should be included in the PAC rate structure. For each claim, an ordered ambulatory service ordered from a PAC visit was incorrectly billed to Medicaid. This resulted in an overpayment of $42,787.58.

## 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 $8,577.45.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR 518.1(c) is $77,174.08, inclusive of interest.