



**NEW YORK STATE  
OFFICE OF THE MEDICAID INSPECTOR GENERAL**

**REVIEW OF BUFFALO COMMUNITY HEALTH, INC.  
RETROACTIVE DISENROLLMENT VOIDS DUE OVER 90 DAYS BASED ON  
NYSDOH/MANAGED CARE QUARTERLY RETROACTIVE  
DISENROLLMENT PREMIUM RECOVERY REPORT FOR THE  
4TH QUARTER 2011**

**FINAL AUDIT REPORT**

**James C. Cox  
Medicaid Inspector General  
December 18, 2012**

## **OFFICE OF THE MEDICAID INSPECTOR GENERAL**

[www.omig.ny.gov](http://www.omig.ny.gov)

The mission of the Office of the Medicaid Inspector General (OMIG), as mandated by New York Public Health Law § 31 is to preserve the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds.

### **DIVISION OF MEDICAID AUDIT**

The Division of Medicaid Audit professional staff conducts audits and reviews of Medicaid providers to ensure compliance with program requirements and, where necessary, to recover overpayments. These activities are done to monitor the cost-effective delivery of Medicaid services for prudent stewardship of scarce dollars; to ensure the required involvement of professionals in planning care to program beneficiaries; safeguard the quality of care, medical necessity and appropriateness of Medicaid services provided; and, to reduce the potential for fraud, waste and abuse.

### **DIVISION OF MEDICAID INVESTIGATIONS**

The Division of Medicaid Investigations (DMI) investigates potential instances of fraud, waste, and abuse in the Medicaid program. DMI deters improper behavior by inserting covert and overt investigators into all aspects of the program, scrutinizing provider billing and services, and cooperating with other agencies to enhance enforcement opportunities. Disreputable providers are removed from the program or prevented from enrolling. Recipients abusing the system are not removed from this safety net, but their access to services is examined and restricted, as appropriate. DMI maximizes cost savings, recoveries, penalties, and improves the quality of care for the state's most vulnerable population.

### **DIVISION OF TECHNOLOGY AND BUSINESS AUTOMATION**

The Division of Technology and Business Automation will continue to support the data needs for the OMIG in the form of audit and investigative support, data mining and analysis, system match and recovery, through the use of commercial data mining products and procurement of expert service consultants.

### **OFFICE OF COUNSEL TO THE MEDICAID INSPECTOR GENERAL**

The Office of Counsel to the Medicaid Inspector General promotes the OMIG's overall statutory mission through timely, accurate and persuasive legal advocacy and counsel.

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**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

December 18, 2012

[REDACTED]  
Buffalo Community Health Inc.  
165 Court Street  
Rochester, NY 14647

Re: Final Audit Report  
Audit # 12-6433  
Provider [REDACTED]

Dear [REDACTED]:

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid and/or Family Health Plus capitation payments made to Buffalo Community Health Inc. (Plan) which the Plan was later instructed to return because the enrollees were retroactively disenrolled from the Plan. The OMIG review determined that the Plan had failed to return the payments. 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.

After reviewing the Plan's December 3, 2012 response to the OMIG's November 6, 2012 draft audit report, the OMIG has reduced the draft audit report disallowances from \$12,963.79 to \$12,665.68 in the final audit report. A detailed explanation can be found in the Findings section.

**BACKGROUND**

The New York State Department of Health (DOH) is responsible for the administration of the Medicaid program. As part of its responsibility as an entity within DOH, 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 NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR), and the Department of Health's Medicaid Provider Manuals, *Medicaid Update* publications and Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

In accordance with 18 NYCRR Parts 517 and 518 and pursuant to the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums) and Appendix H, the OMIG, on behalf of DOH, has the right to recover premiums paid to the Contractor for enrollees listed on the monthly roster who are later determined to have been ineligible for the entire applicable payment month.

## PURPOSE AND SCOPE

The purpose of the audit was to identify instances where the Plan received a capitation payment from Medicaid and subsequently the enrollee was retroactively disenrolled for the entire payment month. Following notification of the retroactive disenrollment by the local district and the State Department of Health's Division of Health Plan Contracting and Oversight via the Quarterly Retroactive Disenrollment Premium Recovery Report, the Plan has not voided the capitation payments. The scope of the audit includes all retroactive disenrollment capitation payments with dates of service beginning with January 1, 2007, listed repeatedly on the Third and Fourth Quarter Quarterly Retro Disenrollment Premium Recovery Reports for 2011.

## FINDINGS

The draft audit found that \$12,963.79 in overpaid capitation payments were made to the Plan when it failed to return the monthly capitation payments associated with enrollees who were retroactively disenrolled for the entire payment month and presented no risk to the Plan. After reviewing the documentation received from the Plan in their December 3, 2012 response to the draft audit report (Attachment I), it was determined that one claim for \$298.11 would be removed from the final audit report (Attachment II). As a result, the disallowances on the final audit report have been reduced to \$12,665.68. (Attachment III). As stated in the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums), Appendix H, and 18 NYCRR Parts 517 and 518, the OMIG has a right to recover overpayments paid to the Plan for enrollees listed on the monthly roster who are later determined to have been ineligible for the entire applicable payment month.

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 date of the overpayment. Interest was calculated on the overpayments identified in the final audit report using a Federal Reserve Prime Rate of 3.25%, from the date of overpayment to the end date of November 6, 2012. For the overpayments identified in Attachment III, the OMIG has determined that accrued interest of \$881.85 is owed.

The total amount of overpayment, inclusive of interest, as defined in 18 NYCRR 518.1, is \$13,547.53. Subsequent to the issuance of the draft audit report, the Plan submitted claim voids in the amount of \$12,665.68 (Attachment IV). Interest will still be charged on the voided claims. Therefore reducing the total amount of the overpayment, inclusive of interest, by the amount of the voided claims leaves a balance due of \$881.85 to the New York State Department of Health.

## REPAYMENT 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 report. The check should be made payable to the **New York State Department of Health** with audit number included 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 12237-0016

**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 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 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.

**HEARING RIGHTS**

The Plan 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 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 Plan wishes to request a hearing, the request must be submitted in writing within sixty (60) days of the date of this notice 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 

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;
- c) Cross examine witnesses of the Department of Health and/or the OMIG; and
- d) Have an interpreter if you do not speak English or are deaf.

If you have any questions regarding the above, please contact [REDACTED] at [REDACTED] or via e-mail at [REDACTED]

Thank you.

Sincerely,

[REDACTED]

Bureau of Managed Care Audit & Provider Review  
Office of the Medicaid Inspector General

CERTIFIED MAIL # [REDACTED]  
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**

Buffalo Community Health, Inc.  
165 Court Street  
Rochester, NY 14647

**PROVIDER #** [REDACTED]

**AUDIT # 12-6433**

**AMOUNT DUE: \$ 881.85**

**PROVIDER  
TYPE**

- Fee For Service
- Rate - LTC
- Rate - NH
- Managed Care
- 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  
Albany, New York 12237-0016

*Thank you for your cooperation.*