NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF WELLCARE OF NEW YORK, 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 7, 2012

OFFICE OF THE MEDICAID INSPECTOR GENERAL

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 7, 2012

[redacted]
Wellcare of New York, Inc.
110 Fifth Avenue, 3rd Floor
New York, NY 10011

Re: Final Audit Report
Audit # 12-6451
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 Wellcare of New York, Inc. (the "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.

As of the release date of this final audit report, the OMIG has not received a response to the draft audit report dated November 15, 2012. As a result, the findings in the final audit report remain unchanged to those cited in the draft audit report with disallowances of $1,222.98.

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 audit found that $1,222.98 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 (Attachment I). 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 15, 2012. For the overpayments identified in Attachment I, the OMIG has determined that accrued interest of $118.10 is owed.

The total amount of overpayment, inclusive of interest, as defined in 18 NYCRR 518.1, is $1,341.08. Subsequent to the issuance of the draft audit report, the Plan submitted claim voids in the amount of $1,222.98 (Attachment II). 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 $118.10 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 2266
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
[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 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 [redacted] Office of Counsel, at [redacted]

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

Wellcare of New York, Inc.
110 Fifth Avenue
3rd Floor
New York, NY 10011

AMOUNT DUE: $ 118.10

PROVIDER [redacted]

AUDIT # 12-6451

PROVIDER TYPE

- ☐ Fee For Service
- ☐ Rate - LTC
- ☐ Rate - NH
- X 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 2266
Albany, New York 12237-0016

Thank you for your cooperation.