**STATE OF NEW YORK**
**OFFICE OF THE MEDICAID INSPECTOR GENERAL**
221 South Warren Street
Syracuse, NY 13202

**ANDREW M. CUOMO**
GOVERNOR

**JAMES C. COX**
MEDICAID INSPECTOR GENERAL

December 17, 2013

[redacted]
Lutheran Medical Center
150 55th Street
Brooklyn, NY 11220

Re: Final Audit Report
Medicare Crossover Claims
Audit #: 13-6057
NPI #: [redacted]
Provider ID #: [redacted]

Dear [redacted]

Enclosed is The New York State Office of the Medicaid Inspector General ("OMIG") final audit report identifying duplicate Medicaid claims paid to Lutheran Medical Center ("Provider") for dual Medicare/Medicaid eligible individuals covering the payment period December 9, 2009 to June 30, 2013. Dual eligibles are defined to be recipients with both Medicare A and/or B and NYS Medicaid coverage. In accordance with Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, this report represents the final determination on issues found during the review.

## BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health ("Department") is responsible for the administration of the Medicaid program. As an independent office within the Department, the OMIG conducts audits and reviews of providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at preserving the integrity of the Medicaid program and ensuring 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, 14 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York) and the Department's Medicaid Provider Manuals and Medicaid Update publications.

Effective December 2009, the New York State Medicaid program implemented an automated Medicare crossover process so providers will no longer have to bill New York Medicaid separately for the Medicare deductible, coinsurance or co-pay amounts for dual eligible Medicare/Medicaid recipients covered by Medicare Parts A & B. These types of claims are now sent directly by Medicare to New York Medicaid for processing and payment. Under this automated process, if a separate claim is for some reason submitted directly by the provider to New York Medicaid for a dual eligible recipient and the claim is processed before the crossover claim from Medicare, both the provider submitted claim and the crossover claim will be reimbursed. However, the eMedNY system should subsequently void the provider submitted claim.

The OMIG recently completed a review of Medicaid claims for dual eligible Medicare/Medicaid recipients with payment dates from December 9, 2009, to June 30, 2013. Specifically, Provider submitted Medicaid claims were matched to the Medicare crossover claim payments generated by the eMedNY computer system. The review has identified instances where, based upon claims you submitted to the New York Medicaid program, Medicaid payments received for a dual eligible recipient were not subsequently voided by the eMedNY system, resulting in overpayments. The purpose of the audit was to ascertain whether overpayments were made.

## LAWS, REGULATIONS, RULES AND POLICIES

The following are applicable Laws, Regulations, Rules, and Policies of the Medicaid program referenced when conducting this audit:

- Department of Health and Mental Hygiene [Titles 10, 14, and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR, 14 NYCRR, 18 NYCRR)].

- Medicaid Management Information System ("MMIS") and eMedNY Provider Manual.

- Department of Health and Mental Hygiene [Titles 10, 14, and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR, 14 NYCRR, 18 NYCRR)]. Specifically:

  Regulations state: "When the department has determined that any person has submitted or caused to be submitted claims for medical care, services or supplies for which payment should not have been made, it may require repayment of the amount determined to have been overpaid." Regulations also state: "An overpayment includes any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse or mistake."

  *18 NYCRR Section 518.1(b) and (c)*

Medicaid policy states: "Effective December 2009, New York State Medicaid implemented an automated Medicare crossover process so providers will no longer have to bill New York Medicaid separately for the Medicare deductible, coinsurance or co-pay amounts for Medicare beneficiaries covered by Medicare Parts A & B. These types of claims are now sent directly by Medicare to New York Medicaid for processing and payment."

*DOH Medicaid Update, January 2010, Vol. 26, No. 1*

Medicaid policy states: "If a separate claim is submitted directly by the provider to Medicaid for a dual eligible client and the claim is processed before the crossover claim from [Medicare], both the provider submitted claim and the crossover claim will be reimbursed. However, the eMedNY system will subsequently void the provider submitted claim."

*DOH Medicaid Update, September 2009, Vol. 25, No. 11*

Medicaid policy states: "Any claim indicated by Medicare as a crossover to Medicaid (MA 18-NY Medicaid) should not be submitted by the provider to Medicaid as a separate claim. If, however, the Medicare remittance does not indicate the claim has been crossed over to Medicaid, the provider should submit the claim directly to Medicaid.

*DOH Medicaid Update, May 2011, Vol. 27, No. 6*

## DETAILED FINDINGS

A draft audit report was issued on September 23, 2013 identifying instances where the Provider received Medicaid overpayments for claims on dual eligible recipients not subsequently voided by the eMedNY system. Although claim edits are in place in the eMedNY claim processing system to identify and subsequently void duplicate claims, the claims identified in this final audit report circumvented these edits.

Any overpayments/claims identified in the draft audit report that were voided by the Provider prior to our issuance of the draft audit report have been removed as a finding in the final audit report. Based on our final determination, the total amount of overpayment, as defined in 18 NYCRR §518.1, is $ 2,852.42.

As of the date of this final audit report $ 2,852.42 remains 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
GNARESP Corning Tower, Room 2739
File #13-6057
Albany, New York 12237

**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, Syracuse
Office of the Medicaid Inspector General

CERTIFIED MAIL [redacted]

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

[redacted]
Lutheran Medical Center
150 55th Street
Brooklyn, New York 11220

PROVIDER ID [redacted]

AUDIT #13-6057

AUDIT TYPE
[ ] PROVIDER
[ ] RATE
[ ] PART B
[ X ] OTHER

AMOUNT DUE: $2,852.42

## 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
GNARESP Corning Tower, Room 2739
File #13-6057
Albany, New York 12237

Thank you for your cooperation.