# NEW YORK STATE
# DEPARTMENT OF HEALTH
# OFFICE OF THE MEDICAID INSPECTOR GENERAL

# REVIEW OF WELLCARE OF NEW YORK, INC.
# SUPPLEMENTAL MATERNITY AND NEWBORN CAPITATION PAYMENTS
# TO ENROLLEES WITHOUT CORRESPONDING ENCOUNTER DATA

## FINAL AUDIT REPORT

**James G. Sheehan**
**Medicaid Inspector General**
**February 3, 2011**

**STATE OF NEW YORK**
**OFFICE OF THE MEDICAID INSPECTOR GENERAL**
800 North Pearl Street
Albany, New York 12204

**ANDREW M. CUOMO**
GOVERNOR

**JAMES G. SHEEHAN**
MEDICAID INSPECTOR GENERAL

February 3, 2011

Mr. Justin Frazer, Director, Regulatory Affairs
Wellcare of New York, Inc.
110 Fifth Avenue, 3rd Floor
New York, NY 10011

Re: Final Report
Audit #: 10-3005
Provider ID #: [redacted]

Dear Mr. Frazer:

The New York State Office of the Medicaid Inspector General (the "OMIG") performed an audit of Wellcare of New York, Inc. (the "Plan") to determine the appropriateness of supplemental newborn and maternity capitation payments where no corresponding encounter data was reported for these services by the Plan for the three years ended December 31, 2008. 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 issues found during the OMIG's review.

After reviewing the Plan's November 22, 2010 response to the OMIG's October 21, 2010 Draft Report, the findings in the Final Report have decreased from those cited in the Draft Report. A detailed explanation of the OMIG's findings is included in the Final Report.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below.

**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 attached Remittance Advice to:

Mr. O. Donald Collins
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 1237
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 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:

Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204
Phone #: (518) 474-5878
Fax#: (518) 408-0593

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.

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 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 Plan 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

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

If the Plan has any questions regarding the above, please contact Jason McCrea at (518) 408-0496 or email at Jason.McCrea@omig.ny.gov.

Sincerely,

[redacted]

Paula E. Pugliese, Project Manager
Bureau of Managed Care Audit & Provider Review
Office of the Medicaid Inspector General

Enclosure
CERTIFIED MAIL # 7009 3410 0001 1147 4091
RETURN RECEIPT REQUESTED

# OFFICE OF THE MEDICAID INSPECTOR GENERAL

www.omig.state.ny.us

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 and 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.

# TABLE OF CONTENTS


| | PAGE |
|---|---|
| BACKGROUND | 1 |
| PURPOSE AND SCOPE | 1 |
| FINDINGS | 1-2 |
| REMITTANCE ADVICE | 3 |
| ATTACHMENTS | |
| ATTACHMENT I - Paid Appropriate Claims | |
| ATTACHMENT II - Claims Voided by Provider | |

## BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (NYS DOH) is responsible for the administration of the Medicaid program. As part of this responsibility, the Department's Office of the Medicaid Inspector General (the "OMIG") conducts audits and reviews of various 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 by the Departments 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)] and the Medicaid Provider Manuals. The purpose of this audit was to ensure that the Plan was in compliance with 18 NYCRR §515.2 which addresses unacceptable practices under the medical assistance program.

Sections 3.8 and 3.9 of the Medicaid Managed Care/Family Health Plus Contract (MMC/FHPC) provide for a Supplemental Newborn or Maternity Capitation Payment to a Managed Care Organization ("MCO") where applicable. The MCO must first make payment to the hospital for the birth/delivery before billing Medicaid for the supplemental payment, and maintain on file evidence of the payment. Section 18.5 (a)(iv), Reporting Requirements for Encounter Data of the MMC/FHPC also requires the MCO to prepare and submit encounter data on a monthly basis to the NYS DOH. Sections 3.8(d) and 3.9(f) go on to state that "Failure to have supporting records may, upon audit, result in recoupment of the Supplemental Maternity or Newborn Capitation Payment by NYS DOH".

A review of the Medicaid maternity and newborn supplemental capitation payments made to the Plan was completed for the three years ended December 31, 2008. The audit identified instances where the Plan failed to maintain documentation to support the billing of supplemental newborn and maternity capitation payments where no corresponding encounter data was reported by the Plan for the services.

In a letter dated May 26, 2010, a compact disc was sent to the Plan identifying supplemental newborn or maternity capitation payments made on behalf of an enrollee for service included in the three year period ending December 31, 2008, for which no corresponding hospital newborn or maternity encounter data was reported by the Plan. The OMIG, in conjunction with the Office of Health Insurance Programs (OHIP), outlined special steps in this letter to allow for the Plan to submit by August 10, 2010 the missing encounter data that would support the supplemental payments identified in this review. The Plans were notified in the May 26, 2010 letter that once the August 10, 2010 deadline passed the OMIG would seek restitution of those supplemental payments for which the Plan did not submit the supporting encounter data. A Draft Report was then issued on October 21, 2010 identifying those supplemental payments wherein the Plan failed to submit encounter data as instructed in the May 26, 2010 letter.

## FINDINGS

A Draft Report was issued identifying $996,052.22 in inappropriately billed claims by the Plan to Medicaid for supplemental maternity or newborn capitation payments that had no supporting encounter data. In response to the Draft Report the Plan submitted supporting documentation for a portion of the claims identified in the Draft Report in the amount of $984,749.12 (Attachment I). As a result, the findings in the Final Report are reduced by this amount.

After reducing the Draft Report findings by $984,749.12, the audit found that the Plan was out of compliance with Sections 3.8 and 3.9 of the MMC/FHPC when it failed to maintain evidence of payment to the hospital for the birth/delivery, and as a result $11,303.10 was inappropriately billed by the Plan to Medicaid for supplemental maternity or newborn capitation payments.

During the course of this audit the Plan repaid the $11,303.10 overpayment via the submission of claim void transactions. As of payment cycle 1744 these voids total $11,303.10 (Exhibit II). Therefore, the remaining overpayment due is $0, 00.

In accordance with 18 NYCRR §518.4, interest may be collected and will accrue at the current rate from the date of the overpayment. For the overpayments identified in this audit, the OMIG has determined that accrued interest of $2,636.14 is owed (Attachment II).

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR §518.1 is $2,636.14, inclusive of interest, and is now due the New York State Department of Health.

# 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: $2,636.14

PROVIDER # [redacted]

AUDIT # 10-3005

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:

Mr. O. Donald Collins
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 1237
Albany, New York 12237-0016

*Thank you for your cooperation.*