NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF FIDELIS CARE OF NY MLTC M/M'S CAPITATION PAYMENTS FOR DECEASED MANAGED CARE ENROLLEES JANUARY 1, 2007 – OCTOBER 22, 2012

FINAL AUDIT REPORT

James C. Cox
Medicaid Inspector General
February 11, 2013

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.

TABLE OF CONTENTS

	PAGE
BACKGROUND	1
PURPOSE AND SCOPE	2
FINDINGS	2
HEARING RIGHTS	2

ATTACHMENTS AND SCHEDULES

ATTACHMENT I – Final Audit Report Overpayments Voided Claims

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

February 11, 2013

[redacted]
Fidelis Care of NY MLTC M/M
95-25 Queens Boulevard, 8th Floor
Rego Park, NY 11374

Re: Final Audit Report
Audit # 12-6911
Provider # [redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (OMIG) has identified instances where Fidelis Care of NY MLTC M/M (Plan) received monthly Medicaid and/or Family Health Plus capitation payments in months when the enrollee was deceased. 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.

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 DOH (Titles 10 and 18 of NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR), and the DOH's Medicaid Provider Manuals, *Medicaid Update* publications and Medicaid Managed Care and 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 Plan 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 this audit was to identify instances where the Plan received a capitation payment subsequent to the enrollee's month of death. These cases were identified by a computerized match comparing Medicaid and Family Health Plus managed care enrollees to New York State and New York City Vital Statistic death record information. The review includes all dates of death reported through April 23, 2012 to Vital Statistics.

FINDINGS

A Draft Audit Report was issued on January 3, 2013 identifying $7,802.77 in overpaid capitation payments made to the Plan for periods subsequent to the enrollee's month of death. In response to the Draft Audit Report the Plan voided the 2 claims identified in the Draft Audit Report (Attachment I). Pursuant to Section 3.6 and Appendix H of the Contract and 18 NYCRR Parts 517 and 518, the OMIG, on behalf of DOH, may recover such overpayments paid to the Plan. Based on this determination, the total amount of overpayment as defined in 18 NYCRR 518.1 is $7,802.77. Repayment of $0.00 is due the DOH.

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 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 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 DOH 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].

Sincerely,

[redacted]

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

Attachments: (1)
CERTIFIED MAIL # [redacted]
RETURN RECEIPT REQUESTED