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
ACTING MEDICAID INSPECTOR GENERAL

January 5, 2012

Boulevard ALP
7161 159th St
Flushing, New York 11365-4123

FINAL AUDIT REPORT
Audit #2011Z47-005S
Provider [redacted]

Dear Provider:

The New York State Office of the Medicaid Inspector General (the "OMIG") completed an audit of certain Medicaid fee-for-service home care service claims paid for Assisted Living Program (ALP) recipients. 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.

Since you did not submit any documentation in response to the OMIG's November 10, 2011 Draft Audit Report, the overpayments are unchanged. A detailed Final Report, along with supporting exhibits, is appended to this notice.

Based on this determination, restitution of the overpayments as defined in 18 NYCRR 518.1 is required in the amount of $14,473.43, inclusive of interest.

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 enclosed Remittance Advice form, signed and dated, to:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
Albany, New York 12237

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 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:

Collections Management Group
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

Do not submit claim voids or adjustments in response to this Final Report.

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.

You have 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 you wish 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, you may have a person represent you or you may represent yourself. If you choose to be represented by someone other than an attorney, you must supply along with your hearing request a signed authorization permitting that person to represent you. At the hearing, you may call witnesses and present documentary evidence on your behalf.

Questions concerning this audit may be directed to [redacted] at [redacted]

Sincerely,

[redacted]

Bureau of Business Intelligence
Office of the Medicaid Inspector General

Enclosure

CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

BOULEVARD ALP
7161 159th St
Flushing, NY 11365-4123

AMOUNT DUE: $ 14,473.43

Provider [redacted]

AUDIT #2011Z47-005S

AUDIT TYPE

[X] PROVIDER
[ ] RATE
[ ] PART B
[ ] 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]
Medicaid Financial Management
New York State Department of Health
GNARESP Corning Tower, Room 1237
File #2011Z47-005S
Albany, New York 12237

5. If the provider number shown above is incorrect, please enter the correct number below.

CORRECT PROVIDER NUMBER

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
ACTING MEDICAID INSPECTOR GENERAL

FINAL REPORT

BOULEVARD ALP
7161 159TH ST
FLUSHING, NEW YORK 11365-4123

ASSISTED LIVING PROGRAM
#2011Z47-005S

ISSUED JANUARY 5, 2012

BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (DOH) is responsible for the administration of the Medicaid program. As an independent office within DOH, the OMIG conducts audits and reviews of 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 in New York State Public Health Law, New York State Social Services Law, regulations of the Departments of Health and Social Services, [Titles 10 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York] and the eMedNY Provider Manuals.

The Assisted Living Program (ALP) operates in adult homes and enriched housing programs and provides a combination of residential services and home care services to Medicaid and private pay residents. For each Medicaid enrollee participating in the ALP, a daily rate is paid to the ALP for the provision of nine distinct home care services. No additional fee-for-service billing can be made for these home care services.

This audit identified potential Medicaid overpayments made for home care services provided to Medicaid patients, who on the same date as these home care services were rendered, were participating in the ALP. The services identified are included in the ALP daily Medicaid rate and should not have been billed fee-for-service.

To accomplish this, ALP home care service claims with payment dates from January 1, 2007 through December 31, 2010 were reviewed.

Please note that due to the implementation of the National Provider Identifier (NPI) on September 1, 2008, there may be multiple Provider Identification Numbers associated with the Primary Provider Identification Number. The NPI is linked to the Primary Provider Identification Number. The Primary Provider Identification Number is used for correspondence and recoupment.

DETAILED FINDINGS

The exhibits are detailed in five categories. All or a combination of the following five exhibits are included in this Draft Audit Report.

1. Durable Medical Equipment and Supplies Not Requiring Prior Approval Billed During an ALP Stay

Regulations state: "By enrolling the provider agrees ... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

18 NYCRR 504.3(h)

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3(i)

Regulations State: "Payment for assisted living program services. (1) The MA program will pay an assisted living program for services provided to eligible MA recipients who are assisted living program residents at a capitated rate of payment... Such capitated rate of payment is payment in full for the following MA services provided to MA recipients:... (iii) medical supplies and equipment not requiring prior approval pursuant to this title;"

18 NYCRR 505.35 (h)(1)(iii)

The Assisted Living Program Manual states: "Home care services that are covered under the daily Medicaid rate, and for which no additional separate billing can be made, in the Assisted Living Program (ALP) include... Medical supplies and equipment not requiring prior approval;"

Assisted Living Program Manual
Version 2006-1, Section I

Exhibit 1 is a list of all claims that contain durable medical equipment and supplies not requiring prior approval billed during an ALP stay. Submitting these claims to Medicaid resulted in an overpayment of $7,093.78.

2. <u>Physical, Speech and/or Occupational Therapy Billed During an ALP Stay</u>

Regulations state: "By enrolling the provider agrees ... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

18 NYCRR 504.3(h)

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3(i)

Regulations State: "Payment for assisted living program services. (1) The MA program will pay an assisted living program for services provided to eligible MA recipients who are assisted living program residents at a capitated rate of payment... Such capitated rate of payment is payment in full for the following MA services provided to MA recipients:... (vii) physical therapy, speech therapy, and occupational therapy."

18 NYCRR 505.35 (h)(1)(vii)

The Assisted Living Program Manual states: "Home care services that are covered under the daily Medicaid rate, and for which no additional separate billing can be made, in the Assisted Living Program (ALP) include... Physical therapy; Occupational Therapy; Speech Therapy..."

Assisted Living Program Manual
Version 2006-1, Section I

Exhibit 2 is a list of all claims that contain physical, speech and/or occupational therapy billed during an ALP stay. Submitting these claims to Medicaid resulted in an overpayment of $720.06.

3. Home Health Aide, Personal Care and/or Personal Emergency Response Services Billed During an ALP Stay

Regulations state: "By enrolling the provider agrees ... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

18 NYCRR 504.3(h)

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3(i)

Regulations State: "Payment for assisted living program services. (1) The MA program will pay an assisted living program for services provided to eligible MA recipients who are assisted living program residents at a capitated rate of payment... Such capitated rate of payment is payment in full for the following MA services provided to MA recipients:... (ii) home health aide services... (iv) nursing services... (v) personal care services... (vi) personal emergency response services (vii) physical therapy, speech therapy, and occupational therapy."

18 NYCRR 505.35 (h)(1)(ii), (v), (vi)

The Assisted Living Program Manual states: "Home care services that are covered under the daily Medicaid rate, and for which no additional separate billing can be made, in the Assisted Living Program (ALP) include... Title XIX Personal Care Services; Home Health Aide Services; Personal Emergency Response Services (PERS); Nursing Services; Physical Therapy; Occupational Therapy;...."

Assisted Living Program Manual
Version 2006-1, Section I

Exhibit 3 is a list of all claims that contain home health aide, personal care and/or personal emergency response services billed during an ALP stay. Submitting these claims to Medicaid resulted in an overpayment of $2,011.48.

4. ALP Per Diem Billed During Medicaid Recipient Inpatient Hospital Stay

Regulations state: "By enrolling the provider agrees ... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

18 NYCRR 504.3(h)

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3(i)

Regulations State: "The MA program will not make payments for assisted living program services provided to an MA recipient while the recipient is receiving... in-patient hospital services."

18 NYCRR 505.35 (h)(7)

Exhibit 4 is a list of all claims made for the ALP per diem rate on the same day as the MA recipient was receiving in-patient hospital services. Submitting these claims to Medicaid resulted in an overpayment of $2,834.79.

5. **Adult Day Care Services Billed During an ALP Stay**

Regulations state: "By enrolling the provider agrees ... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

18 NYCRR 504.3(h)

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

18 NYCRR 504.3(i)

Regulations State: "Payment for assisted living program services. (1) The MA program will pay an assisted living program for services provided to eligible MA recipients who are assisted living program residents at a capitated rate of payment... Such capitated rate of payment is payment in full for the following MA services provided to MA recipients:... (i) adult day health care provided in a program approved by the Department of Health;"

18 NYCRR 505.35 (h)(1)(i)

The Assisted Living Program Manual states: "Home care services that are covered under the daily Medicaid rate, and for which no additional separate billing can be made, in the Assisted Living Program (ALP) include... Adult day health care in a program approved by the Commissioner of Health;"

Assisted Living Program Manual
Version 2006-1, Section I

Exhibit 5 is a list of all claims that contain adult day care services billed during an ALP stay. Submitting these claims to Medicaid resulted in an overpayment of $ 488.54.

DETERMINATION

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 preliminary determination of the overpayment. For the overpayments identified in this audit, the OMIG has determined that accrued interest totals $1,324.78.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR 518.1(c) is $14,473.43, inclusive of interest.

Do not submit claim voids or adjustments in response to this Final Report.