



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

REVIEW OF ORLEANS COUNTY DEPARTMENT OF HEALTH  
CLAIMS FOR PRESCHOOL SUPPORTIVE HEALTH SERVICES  
PROGRAM SERVICES  
PAID FROM  
JANUARY 1, 2011 – DECEMBER 31, 2011

FINAL AUDIT REPORT  
AUDIT #12-5453

James C. Cox  
Medicaid Inspector General

January 30, 2014



STATE OF NEW YORK  
OFFICE OF THE MEDICAID INSPECTOR GENERAL  
584 Delaware Avenue  
Buffalo, New York 14202

ANDREW M. CUOMO  
GOVERNOR

JAMES C. COX  
MEDICAID INSPECTOR GENERAL

January 30, 2014

[REDACTED]  
Orleans County Department of Health  
14012 Route 31  
Albion, New York 14411-9301

Re: Final Audit Report  
Audit #: 12-5453  
Provider ID #: [REDACTED]  
FEIN: [REDACTED]  
NPI #: [REDACTED]

Dear [REDACTED]

Enclosed is the Office of the Medicaid Inspector General (OMIG) final audit report entitled "Review of Orleans County Health Department" (Provider) paid claims for Preschool Supportive Health Services Program services covering the period January 1, 2011, through December 31, 2011.

In the attached final audit report, the OMIG has detailed our purpose and scope, procedures, laws, regulations, rules and policies, sampling technique, findings, provider rights, and statistical analysis.

The OMIG has attached the sample detail for the paid claims determined to be in error. This final audit report incorporates consideration of any additional documentation and information presented in response to the draft audit report dated December 17, 2013. The mean point estimate overpaid is \$62,050. The lower confidence limit of the amount overpaid is \$27,045. We are 95% certain that the actual amount of the overpayment is greater than the lower confidence limit. This audit may be settled through repayment of the lower confidence limit of \$27,045.

[REDACTED]  
Page 2  
January 30, 2014

If the Provider has any questions or comments concerning this final audit report, please contact [REDACTED] or through email at [REDACTED]. Please refer to report number 12-5453 in all correspondence.

Sincerely,

[REDACTED]

Division of Medicaid Audit, Office Location  
Office of the Medicaid Inspector General

[REDACTED]  
Enclosure

cc: [REDACTED]

Ver-5.0

## **OFFICE OF THE MEDICAID INSPECTOR GENERAL**

[www.omig.ny.gov](http://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 assess 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 assess the required involvement of professionals in planning care to program beneficiaries; to 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 and penalties, and also 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.

## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Pursuant to Title XIX of the Social Security Act, the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The federal and state governments jointly fund and administer the Medicaid program. In New York State, the Department of Health (DOH) administers the Medicaid program. As part of this responsibility, the OMIG conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are conducted to determine if the provider complied 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] and the Medicaid Provider Manuals.

Reimbursement under the Medicaid program is available under the School Supportive Health Services Program and Preschool Supportive Health Services Program (SSHSP and PSHSP) for certain diagnostic and health support services provided to students with, or suspected of having disabilities. SSHSP applies to the 5-21 year old population and PSHSP applies to the 3-4 year old population pursuant to §4410 of the Education Law. In 1988, Section 1903 of subdivision (c), of the Social Security Act (SSA) was added by §411(k)(13)(A) of the Medicare Catastrophic Act of 1988 (PL 100-360), to clarify Congressional intent by stating that nothing in Title XIX of the SSA shall preclude Medicaid coverage of services included in a disabled student's Individualized Education Program (IEP). New York State implemented the Federal law in 1989 by amending Section 368 (d) and (e) of Chapter 558 of the Social Services Laws to authorize payment of medical assistance funds for PSHSP and SSHSP services.

### **PURPOSE AND SCOPE**

The purpose of this audit was to determine whether the Provider's claims for Medicaid reimbursement for Preschool Supportive Health Services complied with applicable federal and state laws, regulations, rules and policies governing the New York State Medicaid Program. With respect to Preschool Supportive Health Services, this audit covered services paid by Medicaid from January 1, 2011, through December 31, 2011.

### **SCHOOL SUPPORTIVE HEALTH SERVICES PROGRAM COMPLIANCE AGREEMENT**

In July 2009, the United States Department of Justice, on behalf of the Office of Inspector General (OIG) of the Department of Health and Human Services and the Centers for Medicare and Medicaid Services (CMS) entered into a Settlement Agreement (Settlement Agreement) with the State of New York, the City of New York, and the Board of Education of the City School District of the City of New York to end litigation related to the New York State School Health Services Program (Program). In addition to the Settlement Agreement, CMS entered into Program Compliance Agreement (Compliance Agreement) with New York State Department of Health (DOH), New York State Department of Education and the New York State Office of the Medicaid Inspector General (OMIG) with respect to the Program's compliance with all rules and regulations applicable to this program. Under the terms of the Program Compliance Agreement, the OMIG must conduct payment audits of the Program's compliance with all applicable federal laws and regulations regarding claims for federal Medicaid participation. The payment audits will focus on program physical therapy, occupational therapy, speech therapy, audiological evaluations, evaluations for all available services, nursing services, psychological services, transportation, medical evaluations, targeted case management services, initial individual education plan (IEP), triennial IEP, annual IEP, requested or amended IEP and ongoing service coordination.

The OMIG is required to perform separate payment Program claim audits for the New York City School District and for school districts and Counties in the rest of the State. The results of these audits must be provided to CMS.

### **SUMMARY OF FINDINGS**

We inspected a random sample of 100 claims with \$38,965.86 in Medicaid payments. Of the 100 claims in our random sample, 11 claims had at least one error and did not comply with state requirements. Of the 11 noncompliant claims, some contained more than one deficiency. Specifics are as follows:

<u>Error Description</u>	<u>Number of Errors</u>
No Documentation of Services Provider Under the Direction of a Speech Language Pathologist	5
No Documentation of Supervision	3
No Recommendation or Written Order	3
No Provider Agreement or Statement of Reassignment (Corrective Action)	2
Incorrect Service Billed/Physical Therapy Not Listed on IEP (Corrective Action)	1

Based on the procedures performed, the OMIG has determined the Provider was overpaid \$3,720 in sample overpayments with an extrapolated point estimate of \$62,050. The lower confidence limit of the amount overpaid is \$27,045.

## TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	1
Background	1
Medicaid Program	1
New York State's Medicaid Program	1
New York State's School Supportive Health Services Program and Preschool Supportive Health Services Program	1
School Supportive Health Services Program Compliance Agreement	2
Purpose, Scope, and Methodology	2
Purpose	2
Scope	3
Methodology	3
LAWS, REGULATIONS, RULES AND POLICIES.....	4-5
FINDINGS DETAIL.....	7-9
PROVIDER RIGHTS.....	10-11
REMITTANCE ADVICE	
BRIDGE SCHEDULE	
ATTACHMENTS:	
A – SAMPLE DESIGN	
B – SAMPLE RESULTS AND ESTIMATES	
C – DETAILED AUDIT FINDINGS	

## INTRODUCTION

### BACKGROUND

#### Medicaid Program

Pursuant to Title XIX of the Social Security Act, the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State governments jointly fund and administer the Medicaid program.

#### New York State's Medicaid Program

In New York State, the Department of Health (DOH) is the State agency responsible for operating the Medicaid program. Within DOH, the Office of Health Insurance Programs administers the Medicaid program. DOH uses the electronic Medicaid New York information system (eMedNY), a computerized payment and information reporting system, to process and pay Medicaid claims, including SSHSP and PSHSP claims.

As part of this responsibility, the OMIG conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are conducted to determine if the provider complied 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] and the Medicaid Provider Manuals.

#### New York State's School Supportive Health Services Program and Preschool Supportive Health Services Program

Reimbursement under the Medicaid program is available under the School Supportive Health Services Program and Preschool Supportive Health Services Program (SSHSP and PSHSP) for certain diagnostic and health support services provided by a school or county to students with, or suspected of having disabilities. Services (physical therapy, occupational therapy, speech pathology/therapy, psychological counseling, skilled nursing services), evaluations (basic and comprehensive psychological evaluations, medical evaluations, medical specialist evaluations, audiological evaluations) and special transportation must be provided by qualified professionals either under contract with, or employed by, school districts/§4201 schools/county agencies. In addition, school districts are able to claim Medicaid reimbursement for five additional services identified as Targeted Case Management (TCM). Furthermore, the school districts/§4201 schools/counties must be enrolled as Medicaid providers in order to bill Medicaid.

The specific standards and criteria for SSHSP and PSHSP services are primarily outlined in the provider manual "Medicaid Claiming/Billing Handbook – (UPDATE #6)" as updated by the New York State Department of Health with the New York State Education Department, Part 200 of the Regulations of the Commissioner of the New York State Education Department, and the Questions and Answers posted on the New York State Education Department website, under NYS Medicaid in Education.

## **School Supportive Health Services Program Compliance Agreement**

In July 2009, the United States Department of Justice, on behalf of the Office of Inspector General (OIG) of the Department of Health and Human Services and the Centers for Medicare and Medicaid Services (CMS) entered into a Settlement Agreement (Settlement Agreement) with the State of New York, the City of New York, and the Board of Education of the City School District of the City of New York to end litigation related to the New York State School Health Services Program (Program). In addition to the Settlement Agreement CMS entered into Program Compliance Agreement (Compliance Agreement) with New York State Department of Health (DOH), New York State Department of Education and the New York State Office of the Medicaid Inspector General (OMIG) with respect to the Program's compliance with all rules and regulations applicable to this program. Under the terms of the Program Compliance Agreement, the OMIG must conduct payment audits of the Program's compliance with all applicable federal laws and regulations regarding claims for federal Medicaid participation. The payment audits will focus on program physical therapy, occupational therapy, speech therapy, audiological evaluations, evaluations for all available services, nursing services, psychological services, transportation, medical evaluations, targeted case management services, initial individual education plan (IEP), triennial IEP, annual IEP, requested or amended IEP and ongoing service coordination.

The OMIG is required to perform separate payment Program claim audits for the New York City School District and for school districts and Counties in the rest of the State. The results of these audits must be provided to CMS.

### **PURPOSE, SCOPE, AND METHODOLOGY**

#### **Purpose**

The purpose of this audit was to determine whether the Provider's claims for Medicaid reimbursement for Preschool Supportive Health Services complied with applicable Federal and State laws, regulations, rules and policies governing the New York State Medicaid Program and to verify that:

- Medicaid reimbursable services were rendered for the dates billed;
- appropriate rate or procedure codes were billed for services rendered;
- student related records contained the documentation required by the regulations; and,
- claims for payment were submitted in accordance with DOH regulations and the appropriate Provider Manuals.

## Scope

Our audit period covered payments to the Provider for Preschool Supportive Health Services Program services paid by Medicaid from January 1, 2011, through December 31, 2011. Our audit universe consisted of 1,668 claims totaling \$687,059.04.

During our audit, we did not review the overall internal control structure of the Provider. Rather, we limited our internal control review to the objective of our audit.

## Methodology

To accomplish our objective, we:

- reviewed applicable federal and state laws, regulations, rules and policies;
- held discussions with the Provider's management personnel to gain an understanding of the Preschool Supportive Health Services Program;
- ran computer programming application of claims in our data warehouse that identified 1,668 paid Preschool Supportive Health Services Program claims, totaling \$687,059.04;
- selected a random sample of 100 claims from the population of 1,668 claims; and,
- estimated the overpayment paid in the population of 1,668 claims.

For each claim selection we inspected, as available, the following:

- Medicaid electronic claim information
- Student record, including, but not limited to:
  - Individualized Education Program (IEP)
  - CSE Meeting Minutes
  - Invitation to parent/guardian to attend a CSE meeting and notification of the outcome
  - Service reports
  - Progress notes
- Any additional documentation deemed by the Provider necessary to substantiate the Medicaid paid claim

## LAWS, REGULATIONS, RULES AND POLICIES

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

- 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 State Education Department [Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York (8 NYCRR Part 200)].
- Medicaid Management Information System and eMedNY Provider Manual, including applicable updates by the New York State Department of Health with the New York State Education Department.
- Specifically, Title 18 NYCRR Section 540.6, and other applicable program regulations, for example, 14 NYCRR Part 822.

Regulations state: "By enrolling the provider agrees: (a) to prepare and to maintain contemporaneous records demonstrating its right to receive payment . . . and to keep for a period of six years from the date the care, services or supplies were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider . . . (e) to submit claims for payment only for services actually furnished and which were medically necessary or otherwise authorized under the Social Services Law when furnished and which were provided to eligible persons; (f) to submit claims on officially authorized claim forms in the manner specified by the department in conformance with the standards and procedures for claims submission; . . . (h) that the information provided in relation to any claim for payment shall be true, accurate and complete; and (i) to comply with the rules, regulations and official directives of the department."  
*18 NYCRR Section 504.3*

Regulations state: "Fee-for-service providers.(1) All providers ... must prepare and maintain contemporaneous records demonstrating their right to receive payment . . . All records necessary to disclose the nature and extent of services furnished and the medical necessity therefor ... must be kept by the provider for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later. (2) All information regarding claims for payment submitted by or on behalf of the provider is subject to audit for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later, and must be furnished, upon request, to the department ... for audit and review."  
*18 NYCRR Section 517.3(b)*

Regulations require that bills for medical care, services and supplies contain patient name, case number and date of service; itemization of the volume and specific types of care, services and supplies provided; the unit price and total cost of the care, services and supplies provided; and a dated certification by the provider that the care, services and supplies itemized have been in fact furnished; that the amounts listed are in fact due and owing; that such records as are necessary to disclose fully the extent of care, services and supplies provided to individuals under the New York State Medicaid program will be kept for a period of not less than six years from the date of payment; and that the provider understands that payment and satisfaction of this claim will be from Federal, State and local public funds and that he or she may be prosecuted under applicable Federal and State laws for any false claims, statements or documents, or concealment of a material fact provided.

*18 NYCRR Section 540.7(a)(1)-(3) and (8)*

Regulations 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(c)*

Regulations state: "Vendor payments for medical care and other items of medical assistance shall not be made unless such care or other items of assistance have been furnished on the basis of the appropriate authorization prescribed by the rules of the board and regulations of the department."

*18 NYCRR Section 540.1*

Regulations state: "The department may require repayment from the person submitting an incorrect or improper claim, or the person causing such claim to be submitted, or the person receiving payment for the claim."

*18 NYCRR Section 518.3(a)*

Regulations state: "The department may require repayment for inappropriate, improper, unnecessary or excessive care, services or supplies from the person furnishing them, or the person under whose supervision they were furnished, or the person causing them to be furnished...."

*18 NYCRR Section 518.3(b)*

Regulations state: "Medical care, services or supplies ordered or prescribed will be considered excessive or not medically necessary unless the medical basis and specific need for them are fully and properly documented in the client's medical record."

*18 NYCRR Section 518.3(b)*

## **AUDIT FINDINGS**

This audit report incorporates consideration of any additional documentation and information presented in response to the Draft Audit Report dated December 17, 2013. The attached Bridge Schedule indicates any changes to the findings as a result of your response.

## FINDINGS DETAIL

The OMIG's review of Medicaid claims paid to the Provider from January 1, 2011, through December 31, 2011, identified 11 claims with at least one error, for a total sample overpayment of \$3,720.00 (Attachment C).

### 1. No Documentation of Services Provided Under the Direction of a Speech Language Pathologist (SLP)

Federal regulations state, "...Services for individuals with speech, hearing, and language disorders means diagnostic, screening, preventative, or corrective services provided by or under the direction of a speech pathologist or audiologist, for which a patient is referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under the State law." 42 C. F. R. § 440.110

*United States Code of Federal Regulations*

The Medicaid Claiming/Billing Handbook states, "When providing direction to a TSHH, the licensed SLP is responsible for documenting the four major criteria: 3.a. The SLP should be available, as needed, to the TSHH for assistance and consultation but need not be on the premises; and b. The SLP must have regular scheduled meetings with the TSHH [Effective July 1, 2005]. 4. Review periodic progress notes prepared by the TSHH, consult with the teacher and make recommendations, as appropriate."

The Medicaid Claiming/Billing Handbook also states, "When providing direction to a TSHH, the licensed SLP is responsible for documenting the following four major criteria: 1. Assure the delivery of speech-language pathology services as per the student's (IEP)... criteria of direction listed in the preceding section must be documented. It is important that a school district or county be able to prove that direction is being provided to their TSHH for the purposes of Medicaid billing. What follows are methods for documenting... 1. Assure the delivery of speech-language pathology services as per student's IEP..."

- SLP initials or signs and dates the monthly service report or
- SLP signs and dates a copy of the schedule showing the children in each class and when the day and time each class is scheduled."

Also the Medicaid Claiming/Billing Handbook states, "Documentation needed for face to face contact: Documentation must show that the SLP has seen the beneficiary at the beginning of and periodically during treatment, be familiar with the treatment plan as recommended by the referring physician or other licensed practitioner, have continued involvement in the care provided, and review the need for continued services throughout the treatment (updated 2/6/07)."

*Medicaid Claiming/Billing Handbook  
Update #6, page 13 and 14*

Additional guidance provided in a Medicaid in Education Alert states, "No services provided by the Teacher of Speech and Hearing Handicapped (TSHH) before the first meeting between the qualified SLP and the child are reimbursable by Medicaid."

*Medicaid in Education Alert Issue 08-04  
NYS OMIG SSHSP/PSHSP Medicaid in Education Unit*

In 3 instances pertaining to 2 students, there is no original signature of the SLP on the service report or the progress notes (Sample #'s 73, 77, and 90). In 1 instance, there is no documentation that the Speech Language Pathologist met with the student prior to and periodically during services (Sample #75). In 1 instance, there is no documentation that the SLP met with the TSHH periodically (Sample #68). This finding applies to Sample #'s 68, 73, 75, 77, and 90.

## 2. No Documentation of Supervision

The Medicaid Claiming/Billing Handbook states, "For OTA, Article 156 Section 7906 (6) requires that documentation of direct supervision of an OTA be maintained. The following are some examples of ways to document the required supervision of OTA:

- Sign and date the treatment plan.
- Sign and date the monthly service sheet used for Medicaid billing.
- Sign and date evaluations and assessment documents that are used to determine the method of treatment.
- Sign and date the progress notes completed by the assistants.
- Review, sign and date the weekly service notes.
- Performance appraisals and evaluation of the assistants signed and dated by the therapist."

*Medicaid Claiming/Billing Handbook  
Update #6, page 19*

The regulations state that "The direct supervision required by section 7906(6) of the Education Law shall include meeting with and observing the occupational therapy assistant on a regular basis to review the implementation of treatment plans and to foster professional development."

*8 NYCRR §76.6 Supervision of occupational therapy assistant  
NYS Education Department Commissioner's Regulations*

In 3 instances pertaining to 2 students, the provider was unable to provide documentation that the Occupational Therapist met with the OT Assistant. Without documentation that the OT Assistant was properly supervised, the claim is not eligible for Medicaid reimbursement. This finding applies to Sample #'s 3, 42, and 45.

## 3. No Recommendation or Written Order

The Medicaid Claiming/Billing Handbook states, "A written medical recommendation for speech services must be completed using one of the following three alternatives: 1. A written medical recommendation is signed and completed by a physician, physician's assistant, nurse practitioner, or a New York State registered and licensed ~~or ASHA certified~~ **(updated 2/6/07)** SLP for speech services only, dated on or before the initiation of the speech services 2. A written medical recommendation is signed and completed for all health related support services indicated on the student's IEP by a physician, physician's assistant, or nurse practitioner in accordance with the frequency and duration indicated on the student's IEP. However, School Districts may no longer claim a medical evaluation for a physician's, nurse practitioner or a registered physician's assistant's sign-off on all related services indicated on the student's IEP. 3. The SLP can sign and date the formal speech evaluation or assessment (both of which identify the recommendation with frequency and duration). **Note: The recommendation must include the frequency and duration of the service or state that the service must be provided as per frequency and duration as indicated on the IEP. The New York State Health Department (DOH) defines a medical recommendation as an order.**"

*Medicaid Claiming/Billing Handbook  
Update #6, page 15 and 16*

In 3 instances pertaining to 2 students, there was no valid order for the date of service. The recommendation for services did not contain an original signature of the provider. This finding applies to Sample #'s 73, 77, and 90.

4. **No Provider Agreement or Statement of Reassignment**

The Medicaid Claiming/Billing Handbook states, "In order for school districts, §4201 schools or counties to claim Medicaid reimbursement for services, they must have all private agencies or service providers with whom they contract, sign a Provider Agreement Form and A Statement of Reassignment. Specifically, if a School District, §4201 school or county contracts directly for a service such as transportation or speech therapy with an agency or person who is not an employee of the county or BOCES, that provider must have signed the Provider Agreement Form and the Statement of Reassignment."

*Medicaid Claiming/Billing Handbook  
Update #6, page 10*

In 2 instances pertaining to 2 students, there was no Provider Agreement available to cover the dates of service. This finding applies to Sample #'s 80 and 95.

This finding is being treated as a compliance issue in the current audit of the Provider. A corrective action is assigned.

5. **Incorrect Service Billed/Physical Therapy Not Listed on IEP**

The Medicaid Claiming/Billing Handbook states, "Services must be listed on the Individualized Education Plan (IEP)."

*Medicaid Claiming/Billing Handbook  
Update #6, page 18*

Regulations state, "Services provided under subparagraph (c)(1)(iv) of this section may be made available only if a physician, registered nurse, nurse practitioner, physical therapist, occupational therapist, or speech pathologist, who is acting within the scope of his or her practice under the New York State law, recommends the Medicaid assistance recipient for such services and the services are part of an individualized education program or an interim or final individualized family services plan."

*18 NYCRR Section 505.11 (a)*

In 1 instance, physical therapy services, which were not provided, were billed in error instead of speech therapy services, which were provided to the student. This finding applies to Sample #12.

This finding is being treated as a compliance issue in the current audit of the Provider. A corrective action is assigned.

## PROVIDER RIGHTS

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below. If you decide to repay the lower confidence limit amount of \$27,045, one of the following repayment options must be selected within 20 days from the date of this letter:

**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:

[REDACTED]  
New York State Department of Health  
Medicaid Financial Management  
GNARESP Corning Tower, Room 2739  
File #12-5453  
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.

Furthermore, 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 recover payment and liquidate the lower confidence limit 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.**

If you choose not to settle this audit through repayment of the lower confidence limit, you have the right to challenge these findings by requesting an administrative hearing where the OMIG would seek and defend the point estimate of \$62,050. As allowed by state regulations, you must make your request for a hearing, in writing, within sixty (60) days of the date of this report 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 Office of Counsel, at



Issues you may raise shall be limited to those issues relating to determinations contained in the final audit report. Your hearing request may not address issues regarding the methodology used to determine the rate, or any issue that was raised at a proceeding to appeal a rate determination.

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; and
- c) cross examine witnesses of the Department of Health and/or the OMIG.

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid Program, take action where appropriate, and recover monies owed through the initiation of a civil lawsuit or other legal mechanisms including but not limited to the recovery of state tax refunds pursuant to Section 206 of the Public Health Law and Section 171-f of the State Tax Law.

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

**NAME AND ADDRESS OF AUDITEE**

Orleans County Department of Health  
14012 Route 31  
Albion, New York 14411-9301

**AMOUNT DUE: \$27,045**

**PROVIDER ID** [REDACTED]

**AUDIT #12-5453**

AUDIT	<input checked="" type="checkbox"/> PROVIDER
	<input type="checkbox"/> RATE
	<input type="checkbox"/> PART B
TYPE	<input type="checkbox"/> 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  
GNARESP Corning Tower, Room 2739  
File #12-5453  
Albany, New York 12237

*Thank you for your cooperation.*

FINAL DISPOSITION FOR SAMPLED SELECTIONS CHANGED FROM DRAFT TO FINAL AUDIT REPORT

ORLEANS COUNTY DEPARTMENT OF HEALTH  
 PRESCHOOL SUPPORTIVE HEALTH SERVICES AUDIT  
 AUDIT #12-5453  
 AUDIT PERIOD: 1/1/2011 - 12/31/2011

BRIDGE SCHEDULE

SAMPLE #	FINDING	DRAFT REPORT AMOUNT DISALLOWED	CHANGE	FINAL REPORT AMOUNT DISALLOWED
34	No Provider Agreement or Statement of Reassignment-Finding Deleted	\$0.00		\$0.00
46	No Provider Agreement or Statement of Reassignment-Finding Deleted	\$0.00		\$0.00
58	No Provider Agreement or Statement of Reassignment-Finding Deleted	\$0.00		\$0.00
79	No Provider Agreement or Statement of Reassignment-Finding Deleted	\$0.00		\$0.00
97	No Provider Agreement or Statement of Reassignment-Finding Deleted	\$0.00		\$0.00
100	No Provider Agreement or Statement of Reassignment-Finding Deleted	\$0.00		\$0.00
<b>TOTALS</b>		<u>\$0.00</u>	<u>(\$0.00)</u>	<u>\$0.00</u>

Note: The adjustments shown above only reflect those that were revised as a result of the provider's response. All other adjustments remain the same as shown in the Draft Audit Report.

## **SAMPLE DESIGN AND METHODOLOGY**

Our sample design and methodology are as follows:

- Universe - Medicaid claims for Preschool Supportive Health Services Program services paid during the period January 1, 2011, through December 31, 2011.
- Sampling Frame - The sampling frame for this objective is the Medicaid electronic database of paid Provider claims for Preschool Supportive Health Services Program services paid during the period January 1, 2011, through December 31, 2011.
- Sample Unit - The sample unit is a Medicaid claim paid during the period January 1, 2011, through December 31, 2011.
- Sample Design -- Simple sampling was used for sample selection.
- Sample Size -- The sample size is 100 claims.

## SAMPLE RESULTS AND ESTIMATES

### Audit Statistics

Universe Size	1,668
Sample Size	100
Sample Value	\$ 38,965.86
Sample Overpayments	\$ 3,720.00
Net Financial Error Rate	9.55%
Confidence Level	90%

### Extrapolation of Sample Findings

Sample Overpayments	\$ 3,720.00
Sample Size	100
Mean Dollars in Error for Extrapolation Purposes	\$ 37.20
Universe Size	1,668
Point Estimate of Total Dollars	\$ 62,050
Lower Confidence Limit	\$ 27,045

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
ORLEANS COUNTY DEPARTMENT OF HEALTH  
REVIEW OF PRESCHOOL SUPPORTIVE HEALTH SERVICES  
PROJECT NUMBER: 12-5453  
REVIEW PERIOD: 01/01/11 - 12/31/11

Sample Number	Date of Service	Rate Code		Amount		Over Payment		DETAILED AUDIT FINDINGS						
		Billed	Derived	Paid	Derived	Extrapolated	Not-Extrapolated	1. No Documentation of Services Provided Under the Direction of a Speech Language Pathologist (SLP)	2. No Documentation of Supervision	3. No Recommendation or Written Order	4. No Provider Agreement or Statement of Reassignment (CORRECTIVE ACTION)	5. Incorrect Service Billed/Physical Therapy Not Listed on IEP (CORRECTIVE ACTION)		
1	04/01/09	5325	5325	\$ 397.00	\$ 397.00	\$ -	\$ -							
2	07/01/08	5324	5324	405.00	405.00	-	-							
3	05/01/07	5333	5333	299.00	299.00	-	299.00	X						
4	10/01/08	5325	5325	397.00	397.00	-	-							
5	09/01/07	5333	5333	299.00	299.00	-	-							
6	11/01/08	5325	5325	397.00	397.00	-	-							
7	11/01/07	5331	5331	410.00	410.00	-	-							
8	02/01/08	5333	5333	299.00	299.00	-	-							
9	05/01/08	5331	5331	410.00	410.00	-	-							
10	12/01/08	5331	5331	410.00	410.00	-	-							
11	10/05/11	5434	5434	62.00	62.00	-	-							
12	02/01/08	5332	5332	306.00	306.00	-	-							X
13	05/01/09	5325	5325	397.00	397.00	-	-							
14	08/01/08	5333	5333	299.00	299.00	-	-							
15	08/01/08	5331	5331	410.00	410.00	-	-							
16	08/01/08	5331	5331	410.00	410.00	-	-							
17	09/01/07	5324	5324	405.00	405.00	-	-							
18	10/01/08	5331	5331	410.00	410.00	-	-							
19	11/01/07	5323	5323	545.00	545.00	-	-							
20	03/01/08	5331	5331	410.00	410.00	-	-							
21	05/01/07	5331	5331	410.00	410.00	-	-							
22	12/01/07	5324	5324	405.00	405.00	-	-							
23	12/01/08	5325	5325	397.00	397.00	-	-							
24	07/11/11	5472	5472	49.00	49.00	-	-							
25	12/01/08	5333	5333	299.00	299.00	-	-							





OFFICE OF THE MEDICAID INSPECTOR GENERAL  
ORLEANS COUNTY DEPARTMENT OF HEALTH  
REVIEW OF PRESCHOOL SUPPORTIVE HEALTH SERVICES  
PROJECT NUMBER: 12-5453  
REVIEW PERIOD: 01/01/11 - 12/31/11

Sample Number	Date of Service	Rate Code		Amount		Over Payment		DETAILED AUDIT FINDINGS					
		Billed	Derived	Paid	Derived	Extrapolated	Not-Extrapolated	1. No Documentation of Services Provided Under the Direction of a Speech Language Pathologist (SLP)	2. No Documentation of Supervision	3. No Recommendation or Written Order	4. No Provider Agreement or Statement of Reassignment (CORRECTIVE ACTION)	5. Incorrect Service Billed/Physical Therapy Not Listed on IEP (CORRECTIVE ACTION)	
76	06/01/08	5333	5333	299.00	299.00	-	-						
77	06/01/07	5323		545.00	-	545.00	-	X					
78	06/01/07	5324	5324	405.00	405.00	-	-						
79	05/01/09	5331	5331	410.00	410.00	-	-						
80	09/01/08	5327	5327	175.52	175.52	-	-				X		
81	07/01/08	5331	5331	410.00	410.00	-	-						
82	10/01/07	5331	5331	410.00	410.00	-	-						
83	03/01/09	5323	5323	545.00	545.00	-	-						
84	01/01/08	5324	5324	405.00	405.00	-	-						
85	04/01/09	5333	5333	299.00	299.00	-	-						
86	09/01/07	5331	5331	410.00	410.00	-	-						
87	01/01/08	5331	5331	410.00	410.00	-	-						
88	12/01/08	5331	5331	410.00	410.00	-	-						
89	11/01/08	5333	5333	299.00	299.00	-	-						
90	04/01/07	5323		545.00	-	545.00	-	X					
91	01/01/09	5332	5332	306.00	306.00	-	-						
92	01/01/09	5331	5331	410.00	410.00	-	-						
93	10/01/07	5324	5324	405.00	405.00	-	-						
94	04/01/09	5331	5331	410.00	410.00	-	-						
95	11/01/08	5327	5327	241.34	241.34	-	-						
96	04/01/09	5325	5325	397.00	397.00	-	-						
97	12/01/08	5331	5331	410.00	410.00	-	-						
98	05/01/07	5325	5325	397.00	397.00	-	-						
99	12/01/07	5323	5323	545.00	545.00	-	-						
100	03/01/09	5331	5331	410.00	410.00	-	-						
<b>Totals</b>				\$ 38,965.86	\$ 35,245.86	\$ 3,720.00	\$ -		5	3	3	2	1