NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF HEALTH PLUS PHSP INC. MANAGED CARE CROSSOVER WITH A COLER-GOLDWATER FACILITY, RESIDENTIAL TREATMENT FACILITY OR A STATE RUN FACILITY

DATES OF SERVICE FROM
NOVEMBER 1, 2007 THROUGH DECEMBER 31, 2012

FINAL AUDIT REPORT
AUDIT #13-6298

James C. Cox
Medicaid Inspector General

January 2, 2014

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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

January 2, 2014

[redacted]

Health Plus PHSP, Inc.
c/o Lutheran Medical Center
5800 3rd Avenue
Brooklyn, New York 11220

Re: Final Audit Report
Audit # 13-6298
Provider # [redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid monthly capitation payments made to Health Plus PHSP, Inc. (Plan) that were determined to be overpayments and recoverable based on the enrollee's inpatient or residential status in one of the following types of facilities: a Coler-Goldwater Facility, a Residential Treatment Facility, or a State Run Facility. In accordance with the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract) and Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), this report represents the final determination regarding capitation payments made on behalf of enrollees who were receiving care in a Coler-Goldwater Facility, a Residential Treatment Facility or a State Run Facility.

BACKGROUND

The New York State Department of Health (the Department) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an entity within the Department, 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 Department of Health (Titles 10 and 18 of the NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR) and the Department's Medicaid Provider Manuals, *Medicaid Update* publications, and the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

Pursuant to Section 3.6, 6.1, and Appendix H and M of the Contract, and Chapter 2: Eligible Populations of the New York State Operational Protocol for the Partnership Plan, the OMIG, on behalf of the Department, has a right to recover premiums paid to the Plan for members 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 the audit was to identify instances where the Plan received a monthly capitation payment from Medicaid for an enrollee who at the time was receiving all paid medical care for the entire month in a Coler-Goldwater Facility, a Residential Treatment Facility or a State Run Facility. When an enrollee has entered or stayed in a long-term hospital or a residential facility and the Plan is not at risk for medical services, the enrollee must be disenrolled retroactively and the capitation payments returned to Medicaid. The scope of the audit period is from November 1, 2007 through December 31, 2012.

FINDINGS

A Draft Audit Report was issued on October 22, 2013, identifying $249,342.52 in overpaid capitation payments made to the Plan and not subsequently returned to Medicaid when the Plan received monthly capitation payments for enrollees who were receiving all paid medical care in a Coler-Goldwater Facility, a Residential Treatment Facility, or a State Run Facility. In response to the Draft Audit Report the Plan submitted documentation contesting a portion of the claims (Attachment I). Upon reviewing the documentation, the OMIG agreed to reduce the overpayments in the Draft Audit Report by $2,815.72 (Attachment II) resulting in an overpayment of $246,526.80. As stated in the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums) and Appendix H and 18 NYCRR Parts 517 and 518, the OMIG has a right to recover overpayments 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.

The total amount of overpayment, as defined in 18 NYCRR §518.1(c) is $246,526.80. Repayment of $246,526.80 is due the New York State Department of Health (Attachment III).

EFFECTIVE DATE

The OMIG, on behalf of the Department, is seeking to recover an overpayment in the amount of $246,526.80 from the Plan, effective 20 days from the date of this Final Audit Report.

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, include the audit number and be sent with the attached Remittance Advice to:

New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
File # 13-6298
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 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 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 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

Questions regarding the request for a hearing should be directed to the Office of Counsel, at

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.

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. Please contact or via e-mail at for the disc password or if you have any questions regarding the above. Thank you for your cooperation.

Sincerely,

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

Attachments

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Health Plus PHSP, Inc.
c/o Lutheran Medical Center
5800 3rd Avenue
Brooklyn, New York 11220

AMOUNT DUE: $246,526.80

PROVIDER [redacted]

AUDIT #13-6298

AUDIT TYPE

[ ] PROVIDER
[ ] RATE-LTC
[ ] RATE-NH
[X] MANAGED CARE

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 #13-6298
Albany, New York 12237-0048

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