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

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

# FINAL AUDIT REPORT

July 18, 2012

Chief Executive Officer
ViaHealth Behavioral Health Network, Inc.
490 East Ridge Road
Rochester, New York 14621

Re: Audit #09-5424
Provider ID [redacted]

Dear Chief Executive Officer:

The New York State Office of the Medicaid Inspector General (the "OMIG") and the Office of Mental Health (the "OMH") performed a review of ViaHealth Behavioral Health Network, Inc. (the "Agency's") Comprehensive Outpatient Programs ("COPS") and Community Support Programs ("CSP") supplemental payments for the three years ended December 31, 2005. The COPS reconciliations have been calculated as required by Section 592.8 of Title 14 of the Official Compilation of Codes, Rules and Regulations of the State of New York (14 NYCRR), and the CSP reconciliations have been calculated as required by Section 588.14 of Title 14 of the Official Compilation of Codes, Rules and Regulations of the State of New York (14 NYCRR).

## BACKGROUND

Since 1991, New York State has provided supplemental Medicaid COPS payments to mental health providers for enhanced services to seriously and persistently mentally ill adults and seriously emotionally disturbed children. The supplemental COPS payments are payments in addition to a provider's Medicaid rate, and serve as a deficit funding mechanism. The amount of COPS reimbursement that a provider can retain in any fiscal year is limited to a specific COPS threshold. The COPS threshold is a provider and program specific amount. COPS received in excess of that year's threshold amount will be recouped by the State. CSP payments also fund community-based mental health programs that serve the severely and persistently mentally ill population. CSP payments in excess of the agency's CSP threshold are subject to recovery by the State. In cases where recoveries are necessary, the State may adjust the CSP supplemental rate prospectively.

## REGULATIONS

The OMIG is responsible for reviewing payments made by Medicaid for medical care, services, and supplies/equipment provided to eligible persons. OMIG audits are directed at ensuring provider compliance with applicable laws, regulations, rules and policies as set forth by the Departments of Health and Mental Hygiene (10 NYCRR, 14 NYCRR, & 18 NYCRR, respectively) and the Medicaid Provider Manuals. COPS standards are established in 14 NYCRR Part 592 and CSP standards are in 14 NYCRR Section 588.14.

## FINDINGS

The OMIG and OMH have reviewed the Agency's COPS and CSP payments for the three years ended December 31, 2005. We have identified COPS and CSP overpayments to the Agency of $344,159.64 and $296,056.88, respectively. The Agency did not respond to the revised draft audit report issued on October 12, 2010 within the required 90 day time frame. No reductions were made to the identified overpayments.

## PROVIDER RIGHTS

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 and be sent with the attached Remittance Advice to:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2266
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%. Such interest charges are deemed by the Office of Mental Health to be ineligible for reimbursement. 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 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 $640,216.52, you have the right to challenge these findings by requesting an administrative hearing. 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 [redacted], Office of Counsel, at [redacted]

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.

Should you have any questions, please contact [redacted] at [redacted]

Sincerely,

[redacted]

Coordinator Medical Facilities Audit
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

[redacted]
Enclosure

CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**
Chief Executive Officer
ViaHealth Behavioral Health Network, Inc.
490 East Ridge Road
Rochester, New York 14621

**PROVIDER ID** [redacted]

**AUDIT #09-5424**

**AUDIT TYPE**

[ X ] PROVIDER
[ ] RATE
[ ] PART B
[ ] OTHER:

**AMOUNT DUE: $640,216.52**

**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 2266**
**File #09-5424**
**Albany, New York 12237**

*Thank you for your cooperation.*