NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF WELLCARE OF NEW YORK, INC. SUPPLEMENTAL MATERNITY AND NEWBORN CAPITATION PAYMENTS ON BEHALF OF ENROLLEES WITHOUT CORRESPONDING ENCOUNTER DATA

FINAL AUDIT REPORT

James C. Cox
Medicaid Inspector General
July 11, 2012

OFFICE OF THE MEDICAID INSPECTOR GENERAL

www.omig.state.ny.us

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 and 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.

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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

July 11, 2012

[redacted]
Wellcare of New York, Inc.
110 Fifth Avenue, 3rd Floor
New York, NY 10011

Re: Final Audit Report
Audit #: 12-1027
Provider ID #: [redacted]

Dear [redacted]:

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid and Family Health Plus supplemental newborn or maternity capitation payments made to Wellcare of New York, Inc. (Plan) which the Plan was later instructed to return because there was no corresponding hospital birth or delivery encounter data submitted. 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.

The Plan's July 9, 2012 response to the OMIG's June 6, 2012 draft audit report agreed with the audit findings. As a result, the findings in the final audit report remain unchanged to those cited in the draft audit report. A detailed explanation of the disallowances is included in the Findings section of this report.

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 Department of Health (Titles 10 and 18 of NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR), and the Department of Health's Medicaid Provider Manuals, *Medicaid Update* publications and Medicaid Managed Care/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 Contractor 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 the audit was to identify instances where the Plan received a supplemental newborn and/or maternity capitation payment from Medicaid where no corresponding encounter data was reported by the Plan for the services. The scope of the audit included supplemental newborn and maternity capitation payments with dates of services of January 1, 2009, to December 31, 2010. The audit identified instances where the Plan failed to maintain and provide documentation to support the billing of supplemental newborn and maternity capitation payments.

Sections 3.9 and 3.10 of the Contract provide for a supplemental newborn or maternity capitation payment to a managed care organization (MCO) where applicable. The MCO must first make payment to the hospital for the birth or delivery before billing Medicaid for the supplemental payment, and maintain on file evidence of the payment. Section 18.5 (a)(iv) of the Contract, *Reporting Requirements for Encounter Data*, also requires the MCO to prepare and submit encounter data on a monthly basis to the DOH. Pursuant to 3.9(d) and 3.10(f) of the Contract, "Failure to have supporting records may, upon audit, result in recoupment of the supplemental maternity or newborn capitation payment by the DOH."

FINDINGS

In an Audit Engagement Letter dated January 24, 2012, a file was sent to the Plan identifying supplemental newborn or maternity capitation payments made on behalf of an enrollee for service included in the period of January 1, 2009, to December 31, 2010, for which no corresponding hospital newborn or maternity encounter data was reported by the Plan. The OMIG instructed the Plan to submit the missing encounter data for claims that were less than two years old. For claims older than two years the Plan was instructed to provide documentation supporting the supplemental capitation payments identified in this review.

A draft audit report was subsequently issued to the plan on June 6, 2012 identifying $6,034.79 in an inappropriately billed claim for a supplemental maternity or newborn capitation payment wherein the Plan failed to submit encounter data or documentation to support the billing as instructed in the January 24, 2012 Audit Engagement Letter. In response, the Plan agreed with the findings in the draft audit report (Attachment I). The Plan repaid the overpayment via the submission of a claim void for the inappropriately billed claim in the amount of $6,034.79 (Attachment II).

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 date of the overpayment. Interest was calculated on the overpayments identified in this draft audit report using the Federal Reserve Prime rate (3.25%) from the date of each overpayment through January 24, 2012. As a result, for the overpayment identified in this audit, the OMIG has determined that accrued interest of $407.27 is owed (Interest column Attachment II).

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR 518.1 is $407.27, inclusive of interest (Total Amount Due II) and is due the New York State Department of Health.

REPAYMENT OPTIONS

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** with audit number included 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 2266
Albany, New York 12237-0016

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 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 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.

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 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 Department of Health 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 email at [redacted]

Sincerely,

[redacted]

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

Enclosures (2)

CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE	PROVIDER # [redacted]
Wellcare of New York, Inc. 110 Fifth Avenue, 3rd Floor New York, NY 10011	AUDIT # 12-1027
	PROVIDER TYPE ☐ Fee For Service ☐ Rate - LTC ☐ Rate - NH ☒ Managed Care ☐ Other
AMOUNT DUE: $407.27	

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, B.A.M.
GNARESP Corning Tower, Room 2266
Albany, New York 12237-0016

Thank you for your cooperation.