

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

REVIEW OF DUTCHESS COUNTY HEALTH DEPARTMENT  
CLAIMS FOR PRESCHOOL SUPPORTIVE HEALTH SERVICES  
PAID FROM  
JANUARY 1, 2010 – DECEMBER 31, 2010

FINAL AUDIT REPORT  
AUDIT #11-2968

James C. Cox  
Medicaid Inspector General

June 25, 2013



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

June 25, 2013

[REDACTED]  
Dutchess County Department of Health  
85 Civic Center Plaza, Suite 106  
Poughkeepsie, New York 12601

Re: Final Audit Report  
Audit #: 11-2968

Dear [REDACTED]:

Enclosed is the Office of the Medicaid Inspector General (OMIG) final audit report entitled "Review of Dutchess County Health Department" (Provider) paid claims for Preschool Supportive Health Services Program services covering the period January 1, 2010, through December 31, 2010.

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 April 9, 2013. The mean point estimate overpaid is \$100,472. The lower confidence limit of the amount overpaid is \$28,183. 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 \$28,183.

[REDACTED]  
Page 2  
June 25, 2013

If the Provider has any questions or comments concerning this final audit report, please contact [REDACTED] at [REDACTED] or through email at [REDACTED]. Please refer to report number 11-2968 in all correspondence.

Sincerely,

[REDACTED]

Audit Resources Management  
Division of Medicaid Audit  
Office of the Medicaid Inspector General

[REDACTED]

cc:

[REDACTED]

Enclosure

CERTIFIED MAIL # [REDACTED]  
RETURN RECEIPT REQUESTED

## **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 School Supportive Health Services, this audit covered services paid by Medicaid from January 1, 2010, through December 31, 2010.

### **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 \$39,502.92 in Medicaid payments. Of the 100 claims in our random sample, 6 claims had at least one error and did not comply with state requirements. Of the 6 noncompliant claims, some contained more than one deficiency. Specifics are as follows:

<b><u>Error Description</u></b>	<b><u>Number of Errors</u></b>
No Documentation of Supervision/Direction by Review of Therapist's Progress Notes	2
No Documentation of Supervision/Direction by Meeting with the Speech Therapist or Occupational Therapist	2
No Signed Progress Note for Date of Service	2
No Round Trip Transportation	1
No Order for Service	1
No Documentation of Supervision/Direction by Meeting with the Child Periodically During Treatment	1

Based on the procedures performed, the OMIG has determined the Provider was overpaid \$2,458.94 in sample overpayments with an extrapolated point estimate of \$100,472. The lower confidence limit of the amount overpaid is \$28,183.

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## 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 and School 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;
- patient 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, 2010, through December 31, 2010. Our audit universe consisted of 4,086 claims totaling \$1,591,379.32.

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 4,086 paid Preschool School Supportive Health Services Program claims, totaling \$1,591,379.32;
- selected a random sample of 100 claims from the population of 4,086 claims; and,
- estimated the overpayment paid in the population of 4,086 claims.

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

- Medicaid electronic claim information
- Patient 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: “All bills for medical care, services and supplies shall contain: . . . (8) a dated certification by the provider that the care, services and supplies itemized have in fact been furnished; that the amounts listed are 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)*

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)*

Furthermore, according to regulations, all providers must prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program. In addition, the provider must keep, for a period of six years, all records necessary to disclose the nature and extent of services furnished and the medical necessity therefore, including any prescription or fiscal order for the service or supply. This information is subject to audit for a period of six years and must be furnished, upon request.

*18 NYCRR Section 517.3(b)*

## DETAILED FINDINGS

The OMIG's review of Medicaid claims paid to the Provider from January 1, 2010, through December 31, 2010, identified 6 claims with at least one error, for a total sample overpayment of \$2,458.94 (Attachment C).

### Sample Selection

1. **No Documentation of Supervision and Direction by Review of Therapist's Progress Notes** 37, 40

Physical therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified physical therapist. Occupational therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified occupational therapist. Services for individuals with speech, hearing, and language disorders means diagnostic, screening, preventive, 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 State law.

*42 C. F. R. § 440.110*

*United States Code of Federal Regulations*

To claim Medicaid reimbursement, providers must abide by the following: There should be at least quarterly progress notes prepared by the service provider and signed by the NYS licensed ~~physical therapist~~ occupational therapist (updated 10/17/05). We recommend use of the progress notes sent home to parents (Part 200 of the Regulations of the Commissioner of Education).

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

To claim Medicaid reimbursement, providers must abide by the following:

- The licensed physical therapist must sign all service provider sheets, whether delivering the service directly, or providing supervision to a PTA (Article 136).

- There should be at least quarterly progress notes prepared by the service provider and signed by the NYS licensed physical therapist. We recommend use of the progress notes sent home to parents (Part 200 of the Regulations of the Commissioner of Education). Refer to page 12 for documentation requirements.

*Medicaid Claiming / Billing Handbook  
Update #6, page 17*

When providing direction to a TSHH, the licensed SLP is responsible for documenting the following four major criteria: 4. Review periodic progress notes prepared by the TSHH, consult with the teacher and make recommendations, as appropriate.

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

In 2 instances pertaining to 2 students progress notes were not reviewed or cosigned by the respective supervisor.

**2. No Documentation of Supervision and Direction by Meeting with the Speech Therapist or Occupational Therapist**

6, 40

Regulations state, "Physical therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified physical therapist. Occupational therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified occupational therapist. Services for individuals with speech, hearing, and language disorders means diagnostic, screening, preventive, 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 State law."

*42 C. F. R. Section 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 following 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]."

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

In 2 instances pertaining to 2 student, the claim was billed while there was no documentation of supervision or direction by meeting with the therapist

**3. No Signed Progress Note for Date of Service** 22, 30

The Medicaid Claiming/Billing Handbook states, "Progress notes signed and dated by service provider. A minimum of quarterly progress notes is required for each service except skilled nursing being claimed. The progress notes must address the goals and/or objectives indicated in the student's IEP and copies need to be maintained in accordance with existing document retention requirements. In the alternative, consistent with SED regulations, schools will inform the parents of children with disabilities of their child's progress in meeting annual goals, at least as often as student's without special needs. The notification must include an assessment of sufficient progress to enable the student to achieve the goals by the end of the year. Supporting documentation must be retained in accordance with existing documentation retention requirements."

*Medicaid Claiming / Billing Handbook  
Update #6, page 12*

The Medicaid Claiming/Billing Handbook states, "Progress notes must be maintained. (Refer to page 12 for requirements)".

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

The Medicaid Claiming/Billing Handbook states, "There should be at least quarterly progress notes prepared by the service provider and signed by the NYS licensed occupational therapist (updated 10/17/05).

We recommend use of the progress notes sent home to parents (Part 200 of the Regulations of the Commissioner of Education). Refer to page 12 for documentation requirements.”

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

Regulations state, “(2) All required fiscal and statistical reports are subject to audit for a period of six years from the date of their filing or from the date when such reports were required to be filed, whichever is later. This limitation does not apply to situations in which fraud may be involved or where the provider or an agent thereof prevents or obstructs the commissioner from performing an audit pursuant to this Part. Where reports and documentation have been submitted pursuant to a rate appeal of a provisional rate, such reports and documentation will likewise be subject to audit for a period of six years from the submission of material in support of such appeal or two years following certification of any revised rate resulting from such appeal, whichever is later.”

*18 NYCRR Section 517.3(2)  
New York Codes, Rules and Regulations*

Regulations state, “(c) The IEP shall identify when periodic reports on the progress the student is making toward the annual goals (such as through the use of quarterly or other periodic reports that are concurrent with the issuance of report cards) will be provided to the student’s parents.”

*8 NYCRR Section 200.4 (d)(2)(iii)(c)  
New York Codes, Rules and Regulations*

In 2 instances pertaining to 2 students, the claim was billed while there was no signed documentation of a progress note

**4. No Round Trip Transportation**

38

Policy states: “Special Transportation can only be claimed on a day when the child received a Medicaid covered service and only when round-trip attendance on the bus for that day is documented.”

*Medicaid in Education Alert Issue 08-07  
NYS OMIG SSHSP/PSHSP  
Medicaid in Education Unit*

The Medicaid Claiming/Billing Handbook states:  
“Special transportation can only be billed on a day(s) that a Medicaid reimbursable service was delivered and can only be billed for a round trip.”

*Medicaid Claiming / Billing Handbook  
Update #6, page 27*

In 1 instance, the claim was billed while there was no roundtrip transportation provided on the date of the Medicaid-reimbursable service.

**5. No Order For Service**

30

Services were delivered prior to obtaining a written referral, recommendation or order from an appropriate professional. “(e) Physician’s written order required. (1) Rehabilitation services must be supported by a written order of a qualified physician and must be carried out under his or her medical direction. The written order constitutes medical direction of the physician.” “(3) Such written order is required prior to treatment.”

*18 NYCRR Section 505.11 (2)(d)(1)(iv)(e)(3)*

“(c) Services for individuals with speech, hearing, and language disorders. (1) Services for individuals with speech, hearing, and language disorders means diagnostic, screening, preventive, 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 State law. It includes any necessary supplies and equipment.”

*42 CFR Section 440.110 (C)(1)*

In 1 instance, an order/recommendation for services was not dated.

**6. No Documentation of Supervision and Direction by Meeting with Child Periodically During Treatment**

6

Physical therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified physical therapist. Occupational therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice

## Sample Selection

under State law and provided to a recipient by or under the direction of a qualified occupational therapist. Services for individuals with speech, hearing, and language disorders means diagnostic, screening, preventive, 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 State law.

*42 C. F. R. § 440.110*

*United States Code of Federal Regulations*

For purposes of this subdivision "continuous supervision" shall be deemed to include: i. the licensed physical therapist's setting of the goals, establishing a plan of care, determining on an initial and ongoing basis whether the patient is appropriate to receive the services of a physical therapist assistant, determining the frequency of joint visits with the patient by both the supervising licensed physical therapist and the physical therapist assistant, except that in no instance shall the interval, between joint visits, be more than every ninety calendar days, subject to the licensed physical therapist's evaluation; ii. an initial joint visit with the patient by the supervising licensed physical therapist and physical therapist assistant; iii. periodic treatment and evaluation of the patient by the supervising licensed physical therapist as indicated in the plan of care and as determined in accordance with patient need, except that in no instance shall the interval between such treatment exceed every twelfth visit or thirty days which ever occurs first; and iv. Notification of the supervising licensed physical therapist by the physical therapist assistant whenever there is a change in status, condition or performance of the patient.

*§ 6738 (d) Definition of Physical Therapist  
Assistant  
NYS Education Law*

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 14*

## Sample Selection

No services provided by the Teacher of the Speech and Hearing Handicapped (TSHH) before the first meeting between the qualified SLP and the child are reimbursable by Medicaid.

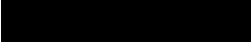
*Medicaid in Education Alert Issue 08-04  
NYS OMIG SSHSP/PSHSP  
Medicaid in Education Unit*

In 1 instance, the claim was billed while there was no documentation of supervision and direction by meeting with the child periodically during treatment.

## PROVIDER RIGHTS

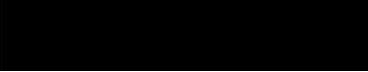
In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below. If you decide to repay the lower confidence limit amount of \$28,183, one of the following repayment options must be selected within 20 days from the date of this letter:

**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:

  
New York State Department of Health  
Medicaid Financial Management  
GNARESP Corning Tower, Room 2739  
File #11-2968  
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  


**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 adjusted 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 \$100,472. 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.

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

**NAME AND ADDRESS OF AUDITEE**

[REDACTED]  
Dutchess County Dept. of Health  
85 Civic Center Plaza, Suite 106  
Poughkeepsie, New York 12601

**PROVIDER ID** [REDACTED]

**AUDIT #11-2968**

**AMOUNT DUE: \$28,183**

**AUDIT  
TYPE**

**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]  
New York State Department of Health  
Medicaid Financial Management, B.A.M.  
GNARESP Corning Tower, Room 2739  
File #11-2968  
Albany, New York 12237

*Thank you for your cooperation.*

## **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, 2010, through December 31, 2010.
- Sampling Frame - The sampling frame for this objective is the Medicaid electronic database of paid Provider claims for Preschool School Supportive Health Services Program services paid during the period January 1, 2010, through December 31, 2010.
- Sample Unit - The sample unit is a Medicaid claim paid during the period January 1, 2010, through December 31, 2010.
- Sample Design – Simple sampling was used for sample selection.
- Sample Size – The sample size is 100 claims.
- Source of Random Numbers – The source of the random numbers was the OMIG statistical software. We used a random number generator for selecting our random sampling items.
- Characteristics to be measured - Adequacy of documentation received supporting the sample claims.
- Treatment of Missing Sample Services - For purposes of appraising items, any sample service for which the Provider could not produce sufficient supporting documentation was treated as an error.
- Estimation Methodology – Estimates are based on the sample data using per unit estimates.

**SAMPLE RESULTS AND ESTIMATES**

Universe Size	4,086
Sample Size	100
Sample Book Value	\$39,502.92
Sample Overpayments	\$2,458.94
Net Financial Error Rate	6%
Mean Dollars in Error	\$24,589.4
Standard Deviation	107.91
Point Estimate of Total Dollars	\$100,472
Confidence Level	90%
Lower Confidence Limit	\$28,183

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 DUTCHESS COUNTY HEALTH DEPARTMENT  
 REVIEW OF SAMPLE SELECTION  
 PROJECT NUMBER: 11-2968  
 REVIEW PERIOD: 01/01/10 - 12/31/10

Sample Number	Date of Service	Rate Code		Amount		Over Payment	DETAILED AUDIT FINDINGS					
		Billed	Derived	Billed	Derived		1. No Documentation of Supervision/Direction by Review of Therapist's Progress Notes	2. No Documentation of Supervision/Direction by Meeting with Therapist	3. No Signed Progress Note for Date of Service	4. No Round Trip Transportation	5. No Order for Service	6. No Documentation of Supervision/Direction by Meeting with Child Periodically
1	05/01/09	5325	5325	\$ 397.00	\$ 397.00	-						
2	05/01/08	5323	5323	545.00	545.00	-						
3	11/01/08	5327	5327	219.40	219.40	-						
4	09/01/08	5325	5325	397.00	397.00	-						
5	01/01/09	5324	5324	405.00	405.00	-						
6	05/01/09	5323	5323	545.00	405.00	545.00	X					
7	04/01/09	5327	5327	285.22	285.22	-						
8	10/01/08	5325	5325	397.00	397.00	-						
9	02/01/09	5327	5327	263.28	263.28	-						
10	12/01/08	5331	5331	410.00	410.00	-						
11	01/01/09	5327	5327	219.40	219.40	-						
12	11/01/08	5327	5327	307.16	307.16	-						
13	01/01/09	5327	5327	153.58	153.58	-						
14	05/01/08	5327	5327	394.92	394.92	-						
15	01/01/09	5325	5325	397.00	397.00	-						
16	04/01/09	5325	5325	397.00	397.00	-						
17	12/01/08	5327	5327	43.88	43.88	-						
18	02/01/09	5327	5327	175.52	175.52	-						
19	04/01/09	5324	5324	405.00	405.00	-						
20	01/01/09	5323	5323	545.00	545.00	-						
21	04/01/09	5331	5331	410.00	410.00	-						
22	08/01/08	5324	5324	405.00	-	405.00		X				
23	05/01/09	5331	5331	410.00	410.00	-						
24	11/01/08	5324	5324	405.00	405.00	-						
25	09/01/08	5323	5323	545.00	545.00	-						

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 DUTCHESS COUNTY HEALTH DEPARTMENT  
 REVIEW OF SAMPLE SELECTION  
 PROJECT NUMBER: 11-2968  
 REVIEW PERIOD: 01/01/10 - 12/31/10

Sample Number	Date of Service	Rate Code		Amount		Over Payment	DETAILED AUDIT FINDINGS					
		Billed	Derived	Billed	Derived		1. No Documentation of Supervision/Direction by Review of Therapist's Progress Notes	2. No Documentation of Supervision/Direction by Meeting with Therapist	3. No Signed Progress Note for Date of Service	4. No Round Trip Transportation	5. No Order for Service	6. No Documentation of Supervision/Direction by Meeting with Child Periodically
26	02/01/09	5323	5323	\$ 545.00	\$ 545.00	\$ -						
27	04/01/09	5325	5325	397.00	397.00	-						
28	01/01/09	5323	5323	545.00	545.00	-						
29	04/01/09	5327	5327	109.70	109.70	-						
30	08/01/08	5323		545.00	-	545.00			X			
31	03/01/09	5324	5324	405.00	405.00	-					X	
32	05/01/09	5327	5327	109.70	109.70	-						
33	06/01/08	5324	5324	405.00	405.00	-						
34	02/01/09	5323	5323	545.00	545.00	-						
35	05/01/09	5324	5324	405.00	405.00	-						
36	04/01/09	5323	5323	545.00	545.00	-						
37	12/01/08	5323		545.00	-	545.00		X				
38	08/01/08	5327	5327	175.52	153.58	21.94				X		
39	06/01/09	5323	5323	545.00	545.00	-						
40	06/01/08	5325		397.00	-	397.00		X				
41	06/01/09	5323	5323	545.00	545.00	-						
42	11/01/08	5332	5332	306.00	306.00	-						
43	06/01/09	5323	5323	545.00	545.00	-						
44	10/01/08	5325	5325	397.00	397.00	-						
45	04/01/09	5331	5331	410.00	410.00	-						
46	04/01/09	5327	5327	131.64	131.64	-						
47	06/01/09	5331	5331	410.00	410.00	-						
48	10/01/08	5325	5325	397.00	397.00	-						
49	06/01/08	5323	5323	545.00	545.00	-						
50	04/01/09	5324	5324	405.00	405.00	-						

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 DUTCHESS COUNTY HEALTH DEPARTMENT  
 REVIEW OF SAMPLE SELECTION  
 PROJECT NUMBER: 11-2968  
 REVIEW PERIOD: 01/01/10 - 12/31/10

Sample Number	Date of Service	Rate Code		Amount		Over Payment	DETAILED AUDIT FINDINGS
		Billed	Derived	Billed	Derived		
51	10/01/08	5325	5325	\$ 397.00	\$ 397.00	-	
52	06/01/09	5331	5331	410.00	410.00	-	
53	11/01/08	5327	5327	65.82	65.82	-	
54	01/01/09	5327	5327	109.70	109.70	-	
55	03/01/09	5333	5333	299.00	299.00	-	
56	07/01/08	5323	5323	545.00	545.00	-	
57	01/01/09	5327	5327	153.58	153.58	-	
58	03/01/09	5327	5327	131.64	131.64	-	
59	05/01/08	5323	5323	545.00	545.00	-	
60	06/01/09	5325	5325	397.00	397.00	-	
61	09/01/08	5323	5323	545.00	545.00	-	
62	02/01/09	5331	5331	410.00	410.00	-	
63	03/01/09	5325	5325	397.00	397.00	-	
64	06/01/09	5324	5324	405.00	405.00	-	
65	09/01/08	5323	5323	545.00	545.00	-	
66	06/01/09	5325	5325	397.00	397.00	-	
67	11/01/08	5324	5324	405.00	405.00	-	
68	05/01/09	5323	5323	545.00	545.00	-	
69	02/01/09	5324	5324	405.00	405.00	-	
70	12/01/08	5327	5327	153.58	153.58	-	
71	01/01/09	5327	5327	197.46	197.46	-	
72	07/01/08	5327	5327	416.86	416.86	-	
73	08/01/08	5325	5325	397.00	397.00	-	
74	05/01/09	5331	5331	410.00	410.00	-	
75	12/01/08	5323	5323	545.00	545.00	-	

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 DUTCHESS COUNTY HEALTH DEPARTMENT  
 REVIEW OF SAMPLE SELECTION  
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 REVIEW PERIOD: 01/01/10 - 12/31/10

DETAILED AUDIT FINDINGS

Sample Number	Date of Service	Rate Code		Amount		Over Payment	1. No Documentation of Supervision/Direction by Review of Therapist's Progress Notes	2. No Documentation of Supervision/Direction by Meeting with Therapist	3. No Signed Progress Note for Date of Service	4. No Round Trip Transportation	5. No Order for Service	6. No Documentation of Supervision/Direction by Meeting with Child Periodically
		Billed	Derived	Billed	Derived							
76	06/01/09	5323	5323	\$ 545.00	\$ 545.00	\$ -	-	-	-	-	-	-
77	10/01/08	5323	5323	545.00	545.00	-	-	-	-	-	-	-
78	06/01/09	5325	5325	397.00	397.00	-	-	-	-	-	-	-
79	06/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
80	02/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
81	12/01/08	5323	5323	545.00	545.00	-	-	-	-	-	-	-
82	06/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
83	06/01/08	5327	5327	197.46	197.46	-	-	-	-	-	-	-
84	05/01/09	5327	5327	263.28	263.28	-	-	-	-	-	-	-
85	12/01/08	5323	5323	545.00	545.00	-	-	-	-	-	-	-
86	04/01/09	5333	5333	299.00	299.00	-	-	-	-	-	-	-
87	11/01/08	5325	5325	397.00	397.00	-	-	-	-	-	-	-
88	03/01/09	5327	5327	263.28	263.28	-	-	-	-	-	-	-
89	07/01/08	5327	5327	109.70	109.70	-	-	-	-	-	-	-
90	03/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
91	12/01/08	5323	5323	545.00	545.00	-	-	-	-	-	-	-
92	02/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
93	12/01/08	5325	5325	397.00	397.00	-	-	-	-	-	-	-
94	03/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
95	11/01/08	5327	5327	131.64	131.64	-	-	-	-	-	-	-
96	11/01/08	5325	5325	397.00	397.00	-	-	-	-	-	-	-
97	12/01/08	5323	5323	545.00	545.00	-	-	-	-	-	-	-
98	05/01/09	5323	5323	545.00	545.00	-	-	-	-	-	-	-
99	10/01/08	5323	5323	545.00	545.00	-	-	-	-	-	-	-
100	07/01/08	5324	5324	405.00	405.00	-	-	-	-	-	-	-
<b>Totals</b>				<b>\$ 39,502.92</b>	<b>\$ 37,043.98</b>	<b>\$ 2,458.94</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>