

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

**ANDREW M. CUOMO
GOVERNOR**

**JAMES C. COX
MEDICAID INSPECTOR GENERAL**

FINAL REPORT

**COLER-GOLDWATER HOSPITAL
160 WATER STREET
NEW YORK, NEW YORK 10038-4822**

**REVIEW OF INPATIENT SERVICES
#11-5738**



ISSUED March 14, 2013



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

March 14, 2013

[REDACTED]
Coler-Goldwater Hospital
160 Water Street
New York, New York 10038-4822

Re: FINAL AUDIT REPORT
Project # 11-5738
Provider # [REDACTED]

Dear [REDACTED]

The New York State Office of the Medicaid Inspector General (OMIG) completed a review of a Medicaid claim paid for services provided by Coler-Goldwater Hospital [REDACTED]. 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 issues found during the OMIG's review.

The response by Dr. Howard Finger, D.O. to the OMIG's November 10, 2011 Draft Audit Report has been reviewed by OMIG audit staff and medical staff. As a result, the overpayment in the Final Audit Report remains unchanged from that cited in the Draft Audit Report. A detailed Final Audit Report, along with supporting exhibit, is enclosed with this notice.

Based on this determination, restitution of the overpayment as defined in 18 NYCRR Section 518.1 is required in the amount of \$26,342.25.

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:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #: 11-5738
Albany, New York 12237-0048

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]

Do not submit claim voids or adjustments in response to this Final Audit Report.

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 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.

The Provider has the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. 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
Division 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.

If Coler-Goldwater Hospital has any questions concerning this report, please contact [REDACTED] at [REDACTED] or through email at [REDACTED]. Please refer to report number 11-5738 in all correspondence.

Sincerely,

[REDACTED]

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

Enclosure

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Coler-Goldwater Specialty Hospital and
Nursing Facility
160 Water Street
New York, New York 10038-4822

PROVIDER ID [REDACTED]

AUDIT #11-5738

AMOUNT DUE: \$26,342.25

AUDIT TYPE	<input checked="" type="checkbox"/> PROVIDER
	<input type="checkbox"/> RATE
INPATIENT SERVICES	<input type="checkbox"/> PART B
	<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, B.A.M.
GNARESP Corning Tower, Room 2739
File #11-5738
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

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BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (DOH) is responsible for the administration of the Medicaid program. As an independent office with DOH, the OMIG conducts audits and reviews providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at ensuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid Program as set forth in NY Public Health Law, NY Social Services law, regulations of the Department of Health, [Titles 10 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York] and the Medicaid Provider Manuals.

The OMIG reviewed billings for inpatient services to ensure that:

- Inpatient services were billed appropriately and in accordance with DOH rules and regulations, and provider billing guidelines.

To accomplish this, a claim with a date of payment February 23, 2009 was reviewed.

DETAILED FINDINGS

The detailed findings of our review are as follows:

1. Incorrect Rate Code Billed

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: "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)

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)

For the claim reviewed, the medical record does not document patient condition or services rendered at an acute level of care. The identified days of care should have been claimed at the alternate level of care (ALC) rate available to Coler-Goldwater Hospital. The OMIG physician, based on a review of the medical record provided has determined the record does not demonstrate the minimal Physical Therapy (PT) intervention of 30 minutes a day, 5 days/week for 3 weeks as truly restorative, nor does it indicate the necessity for the PT. The entire month under review should have been billed at the facility's ALC rate.

DETERMINATION

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR Section 518.1 (c) is \$26,342.25 (Exhibit I). This represents the difference between the amount paid under rate code 2948 Rehabilitation Hospitals-DRG Exempt, and the correct amount that would have been the appropriate payment if the claim had been billed properly under the provider rate code 2954-Awaiting ALC Residential Health Care Facility-Non-DRG code.

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 COLER-GOLDWATER SPECIALTY HOSPITAL
 REVIEW OF PAID CLAIMS
 PROJECT NO. 11-5738
 REVIEW PERIOD 1/01/09-1/31/09

Claim Number	Patient Initials	Date of Service	Date of Payment	Rate Code		Amount			Detailed Audit Findings
				Billed	Derived	Paid	Derived	Disallowed	
1		1/01/2009-1/31/2009	02/23/09	2948	2954	\$34,989.24	\$8,626.99	\$26,342.25	1. Improper Rate Code Billed
TOTALS						<u>\$34,989.24</u>	<u>\$8,626.99</u>	<u>\$26,342.25</u>	<u>1</u>