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

REVIEW OF BRADFORD CENTRAL SCHOOL DISTRICT CLAIMS FOR SCHOOL SUPPORTIVE HEALTH SERVICES PAID FROM JANUARY 1, 2009 – DECEMBER 31, 2009

FINAL AUDIT REPORT

James G. Sheehan
Medicaid Inspector General

May 26, 2011

STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
259 Monroe Avenue, Suite 312
Rochester, NY 14607

ANDREW M. CUOMO
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

May 26, 2011

[redacted]
Bradford Central School District
2820 State Route 226
Bradford, NY 14815

Re: Final Audit Report
Audit #: 10-3792

Dear [redacted]

Enclosed is the Office of the Medicaid Inspector General (OMIG) final audit report entitled "Review of Bradford Central School District" (Bradford Central School District) paid claims for School Supportive Health Services Program services covering the period January 1, 2009, through December 31, 2009.

In the attached final audit report, the OMIG has detailed our objectives 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 March 9, 2011. The actual amount overpaid is $2,974.00. This audit may be settled through repayment of the actual overpayment of $2,974.00.

If Bradford Central School District has any questions or comments concerning this final audit report, please contact at or through email at Please refer to report number 10 - 3792 in all correspondence.

Sincerely,

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

Cc:
Enclosure

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

OFFICE OF THE MEDICAID INSPECTOR GENERAL

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 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.

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 directed at ensuring provider compliance 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.

OBJECTIVE AND SCOPE

The objective of our audit was to ensure Bradford Central School District's compliance with applicable federal and state laws, regulations, rules and policies governing the New York State Medicaid Program. With respect to SSHSP services, our audit covered services paid by Medicaid from January 1, 2009 through December 31, 2009.

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 evaluations, annual IEP, requested or interim IEP and ongoing service coordination.

The OMIG is required to perform separate payment Program claim audits for the Bradford Central School District and for school districts in the rest of the State. The results of these audits must be provided to CMS.

SUMMARY OF FINDINGS

We inspected all 71 claims with $30,158.00 in Medicaid payments. Of the 71 claims, 7 claims had at least one error and did not comply with state requirements. Specifics are as follows:

Error Description	Number of Errors
No Progress Notes that Cover the Service Month	7

Based on the services performed, the OMIG has determined Bradford Central School District was overpaid $2,974.00 in sample overpayments.

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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 directed at ensuring provider compliance 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, and Part 200 of the Regulations of the Commissioner of the New York State Education Department.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our audit was to ensure the Bradford Central School District's compliance 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 Bradford Central School District for SSHSP services paid by Medicaid from January 1, 2009, through December 31, 2009. Our audit universe consisted of 71 claims totaling $30,158.00.

During our audit, we did not review the overall internal control structure of Bradford Central School District. 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 Bradford Central School District management personnel to gain an understanding of the School Supportive Health Services program;
- ran computer programming application of claims in our data warehouse that identified 71 paid School Supportive Health Services Program claims, totaling $30,158.00;
- selected all 71 claims; and,
- calculated the overpayment.

In determining the propriety of the claims for the sample selection, the following documents were inspected, where applicable and/or available:

- Medicaid electronic claim information
- Individualized Education Program (IEP)
- CSE Meeting Minutes
- Invitation to Parent/guardian to attend a CSE meeting and notification of the outcome
- Any additional documentation deemed by the Bradford Central School District (County) necessary to substantiate the Medicaid paid claim

Each Medicaid claim in the sample was compared to the corresponding documentation in the recipient's record to ascertain the propriety of services paid. Additional supportive documentation was requested as necessary.

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)].

- Medicaid Management Information System and eMedNY Provider Manual.

- Specifically, 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.

- In addition to any specific detailed findings, rules and/or regulations which may be listed below, the following regulations pertain to all audits:

  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 Bradford Central School District from January 1, 2009, through December 31, 2009, identified 7 claims with at least one error, for a total sample overpayment of $2,974.00 (Attachment C).

	Sample Selection
1. No Progress Notes that Cover the Service Month	9, 17, 19, 20, 21, 79, 84

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

Update #6, page 13

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.

Update #6, page 12

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 $2,974.00, 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 1237
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

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 actual overpayment, you have the right to challenge these findings by requesting an administrative hearing where the OMIG would seek and defend the actual overpayment of $2,974.00. 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

[redacted]
Bradford Central School District
2820 State Route 226
Bradford, NY 14815

PROVIDER ID #[redacted]

AUDIT #10-3792

Bradford Central School District

SSHSP

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

AMOUNT DUE: $2,974.00

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 1237
File #10 - 3792
Albany, New York 12237-0048

Thank you for your cooperation.