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

## REVIEW OF CAPITAL DISTRICT PHYSICIANS' HEALTH PLAN INCARCERATION MATCH DATES OF SERVICE FROM JULY 1, 2009 THROUGH DECEMBER 31, 2010

## FINAL AUDIT REPORT

**James G. Sheehan**
**Medicaid Inspector General**
**May 19, 2011**

## 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.

# TABLE OF CONTENTS


| | PAGE |
|---|---|
| BACKGROUND | 1 |
| PURPOSE AND SCOPE | 2 |
| FINDINGS | 2 |
| REPAYMENT OPTIONS | 2 |
| HEARING RIGHTS | 3 |
| REMITTANCE ADVICE | 5 |

ATTACHMENTS
- ATTACHMENT I – Provider Response to Draft Audit Report
- ATTACHMENT II – Disallowed Capitation Payments for Incarcerated Recipients

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

**ANDREW M. CUOMO**
GOVERNOR

**JAMES G. SHEEHAN**
MEDICAID INSPECTOR GENERAL

May 19, 2011

[redacted]
Capital District Physicians' Health Plan
500 Patroon Creek Blvd.
Albany, NY 12206

Re: Final Audit Report
Audit # 11-2489
Provider # [redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (OMIG) performed an audit to determine if capitation payments were made to Capital District Physicians' Health Plan (the Plan) for an enrollee incarcerated during the period of July 1, 2009 through December 31, 2010. 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 OMIG has received the Plan's April 11, 2011 response to the OMIG's March 24, 2011 draft report, in which the Plan indicated agreement with the findings of the draft report. As a result, the findings in the final report remain unchanged to those cited in the draft report, with disallowances of $107,418.70.

## BACKGROUND

The New York State Department of Health is responsible for the administration of 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.

As per the Medicaid Managed Care and Family Health Plus Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums), the OMIG has a right to recover premiums paid to the Contractor for enrollees listed on the monthly roster who are later determined to have been incarcerated for the entire applicable payment month.

## PURPOSE AND SCOPE

The purpose of the audit was to identify instances where the Plan received a capitation payment from Medicaid when the recipient was incarcerated for the entire payment month. These cases were identified by a computerized match comparing Medicaid and Family Health Plus managed care enrolled recipients to information provided by the New York State Department of Correctional Services and Division of Criminal Justice Services. The review included capitation payments made to the Plan during the period July 1, 2009 through December 31, 2010.

## FINDINGS

The audit found that $107,418.70 in capitation payments were inappropriately paid to the Plan for Medicaid recipients who were incarcerated for the entire payment month (Attachment II). As stated in the Medicaid Managed Care and Family Health Plus Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums), the OMIG has a right to recover premiums paid to the Contractor for enrollees listed on the monthly roster who are later determined to have been incarcerated for the entire applicable payment month. The OMIG has received the Plan's April 11, 2011 response to the OMIG's March 24, 2011 draft report, in which the Plan indicated agreement with the findings of the draft report. (Attachment I) As a result, the total amount of overpayment, as defined in 18 NYCRR § 518.1, is $ 107,418.70 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 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 and be sent with the attached Remittance Advice to:

[redacted]
New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 1237
Albany, New York 12237-0016

**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 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 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:

Collections Management Group
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204
[redacted]

If within 20 days you fail to make full payment or contact the OMIG to make repayment arrangements, the OMIG will establish a withhold equal to 50% of your Medicaid billings to secure payment and liquidate 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 Section 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 to:

General Counsel
Office of Counsel
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

If a hearing is held, the Plan may have a person represent the Plan or the Plan may represent itself. If the Plan chooses to be represented by someone other than an attorney, the Plan must supply along with the Plan's hearing request a signed authorization permitting that person to represent the Plan. At the hearing, the Plan may call witnesses and present documentary evidence on the Plan's behalf.

If you have any questions regarding the above, please contact [redacted] at [redacted] or via e-mail at [redacted]

Thank you.

Sincerely,

[redacted]

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

CERTIFIED MAIL #[redacted]
RETURN RECEIPT REQUESTED

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

| | |
|---|---|
| **NAME AND ADDRESS OF AUDITEE**<br><br>CDPHP<br>500 Patroon Creek Blvd.<br>Albany, NY 12206 | **PROVIDER #** [redacted]<br><br>**AUDIT #** 11-2489 |
| **AMOUNT DUE: $ 107,418.70** | **PROVIDER TYPE**<br>☐ Fee For Service<br>☐ Rate - LTC<br>☐ Rate - NH<br>X Managed Care<br>☐ 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 1237
Albany, New York 12237-0016

*Thank you for your cooperation.*