**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

May 1, 2013

Empire State Home Care Service
[redacted]
15 Metrotech Center Floor 10
Brooklyn, NY 11201

FINAL AUDIT REPORT
Audit #2012Z07-065W
Provider [redacted]

Dear [redacted]:

The New York State Office of the Medicaid Inspector General (OMIG) completed an audit of Medicaid claims paid for home health services and/or personal care services for Medicaid recipients who resided in a skilled nursing facility or received inpatient hospital services on the date of home health service and/or personal care service. 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.

After reviewing your response to the OMIG's October 9, 2012 Draft Audit Report, the Draft Audit Report overpayments of $2,387.80 are reduced to $2,260.76 in the Final Report. A detailed explanation of the revision is included in the Final Report.

Based on this determination, restitution of the overpayments as defined in 18 NYCRR 518.1 is required in the amount of $2,260.76, inclusive of interest.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below.

**OPTION #1**: Make a full payment by check or money order within 20 days of the date of the final report. The check should be made payable to the New York State Department of Health and be sent with the enclosed Remittance Advice form, signed and dated, to:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
Albany, New York 12237

**OPTION #2**: Enter into a repayment agreement with the Office of the Medicaid Inspector General to have the overpayments applied against your future Medicaid payments. If your repayment terms exceed 90 days from the date of the final 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

**Do not submit claim voids or adjustments in response to this Final 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 secure payment and liquidate the overpayment amount, interest and/or penalty, not barring any other remedy allowed by law. The OMIG will provide notice to you no later than 5 days after the withholding of any funds.

In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against the amount owed.

You have 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 you wish to request a hearing, the request must be submitted in writing to:

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

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

Questions concerning this audit may be directed to [redacted] or by fax at [redacted].

Sincerely,

[redacted]

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**

Empire State Home Care Service
15 Metrotech Center Floor 10
Brooklyn, NY 11201

**AMOUNT DUE: $2,260.76**

**Provider** [redacted]

**AUDIT #2012Z07-065W**

| | |
|---|---|
| AUDIT TYPE | [ X] PROVIDER<br>[ ] RATE<br>[ ] PART B<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]
Medicaid Financial Management
New York State Department of Health
GNARESP Corning Tower, Room 2739
File #2012Z07-065W
Albany, New York 12237

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

CORRECT PROVIDER NUMBER

# NEW YORK STATE
# OFFICE OF THE MEDICAID INSPECTOR GENERAL

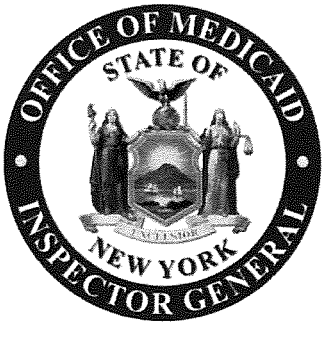
ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

# FINAL REPORT

EMPIRE STATE HOME CARE SERVICE
15 METROTECH CENTER FLOOR 10
BROOKLYN, NY 11201

HOME HEALTH CARE AND PERSONAL CARE SERVICES
#2012Z07-065W




ISSUED MAY 1, 2013

## 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 within DOH, the OMIG conducts audits and reviews of 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 Departments of Health and Social Services, [Titles 10 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York] and the eMedNY Provider Manuals.

Medicaid skilled nursing facility patients and hospital inpatients are provided a full range of patient services during their stay. HHC/PCA services, with certain exceptions, are not necessary during these stays as they are duplicative. Medicaid reimbursement may not be made for services which duplicate/substitute for services that are required to be provided by another entity.

The purpose of this review is:

- To identify potential Medicaid overpayments made for home health and/or personal care services provided to Medicaid patients, who on the same date as these services, were residing in a skilled nursing facility. Skilled nursing facility rates generally include all the costs incurred for the care of the inpatient.

  To accomplish this, home health and/or personal care service claims with payment dates from January 1, 2008 through December 31, 2011 were reviewed.

- To identify potential Medicaid overpayments made to you for home health and/or personal care services provided to Medicaid patients, who on the same date as these services, received inpatient hospital services. Inpatient hospital rates generally include all the costs incurred for the care of the inpatient.

  To accomplish this, home health and/or personal service claims with payment dates from January 1, 2010 through December 31, 2011 were reviewed.

## DETAILED FINDINGS

The detailed findings of our audit follow. One or two findings may be included in this audit:

### 1. Home Health Services and/or Personal Care Services Billed During a Skilled Nursing Facility Stay

Regulations state: "By enrolling the provider agrees… "to submit claims for payment only for services actually furnished and which were medically necessary…"

*18 NYCRR 504.3(e)*

Regulations state: "By enrolling the provider agrees... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

*18 NYCRR 504.3(h)*

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

*18 NYCRR 504.3(i)*

Regulation 18 NYCRR 518.1(c) defines "overpayment" as "any amount not authorized to be paid under the medical assistance program, whether paid as a result of ...improper claiming... or mistake" and provides for the recovery of these overpayments by OMIG.

*18 NYCRR 518.1(c)*

The DOH Medicaid Update states: "Medicaid reimbursement may not be made for services which duplicate/substitute for services that are required to be provided by another entity. ...In instances when a CHHA is determined to have inappropriately provided Medicaid services to ACF (Adult Care Facility) residents, the Department will take action that may include recoupment of funds or sanctions."

*DOH Medicaid Update, April 2006*
*Vol.21, No.4*

Exhibit I is a list of all claims that contain home health services and/or personal care services billed to Medicaid during a Medicaid patient's stay in a skilled nursing facility. Submitting these claims to Medicaid resulted in an overpayment of $186.48.

**2. <u>Home Health Services and/or Personal Care Services Billed During a Inpatient Hospital Stay</u>**

Regulations state: "By enrolling the provider agrees... "to submit claims for payment only for services actually furnished and which were medically necessary..."

*18 NYCRR 504.3(e)*

Regulations state: "By enrolling the provider agrees... that the information provided in relation to any claim for payment shall be true, accurate, and complete;"

*18 NYCRR 504.3(h)*

Regulations state: "By enrolling, the provider agrees... to comply with the rules, regulations and official directives of the department."

*18 NYCRR 504.3(i)*

Regulation 18 NYCRR 518.1(c) defines "overpayment" as "any amount not authorized to be paid under the medical assistance program, whether paid as a result of ...improper claiming... or mistake" and provides for the recovery of these overpayments by OMIG.

*18 NYCRR 518.1(c)*

Exhibit 2 is a list of all claims that contain home health services and/or personal care services billed to Medicaid during a Medicaid patient's inpatient hospital stay. Submitting these claims to Medicaid resulted in an overpayment of $1,954.98.

## DETERMINATION

Failure to comply with Title(s) 10, 14 and/or 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) and the MMIS Policy and Billing Guidance Ambulatory Patient Groups (APGs) Provider Manual resulted in a total overpayment of $2,141.46.

In accordance with 18 NYCRR 518.4, interest may be collected on any overpayments identified in this audit and will accrue at the current rate from the preliminary determination of the overpayment. For the overpayments identified in this audit, the OMIG has determined that accrued interest totals $119.30.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR 518.1(c) is $2,260.76, inclusive of interest.

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