STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
221 South Warren Street
Syracuse, NY 13202

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

November 12, 2013

[redacted]
Total Care Rx Inc.
5737 Main Street
Flushing, New York 11355-5332

Re: Final Audit Report
Medicare Crossover Claims
Audit #: 13-5255
NPI #: [redacted]
Provider ID #: [redacted]

Dear [redacted]

Enclosed is The New York State Office of the Medicaid Inspector General ("OMIG") final audit report identifying duplicate Medicaid claims paid to Total Care Rx, Inc. ("Provider") for dual Medicare/Medicaid eligible individuals covering the payment period December 9, 2009 to June 30, 2013. Dual eligibles are defined to be recipients with both Medicare A and/or B and NYS Medicaid coverage. In accordance with Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, this report represents the final determination on issues found during the review.

BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health ("Department") is responsible for the administration of the Medicaid program. As an independent office within the Department, the OMIG conducts audits and reviews of providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at preserving the integrity of the Medicaid program and ensuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in New York Public Health Law, New York Social Services Law, the regulations of the Department of Health (Titles 10, 14 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York) and the Department's Medicaid Provider Manuals and Medicaid Update publications.

Effective December 2009, the New York State Medicaid program implemented an automated Medicare crossover process so providers will no longer have to bill New York Medicaid separately for the Medicare deductible, coinsurance or co-pay amounts for dual eligible Medicare/Medicaid recipients covered by Medicare Parts A & B. These types of claims are now sent directly by Medicare to New York Medicaid for processing and payment. Under this automated process, if a separate claim is for some reason submitted directly by the provider to New York Medicaid for a dual eligible recipient and the claim is processed before the crossover claim from Medicare, both the provider submitted claim and the crossover claim will be reimbursed. However, the eMedNY system should subsequently void the provider submitted claim.

The OMIG recently completed a review of Medicaid claims for dual eligible Medicare/Medicaid recipients with payment dates from December 9, 2009, to June 30, 2013. Specifically, Provider submitted Medicaid claims were matched to the Medicare crossover claim payments generated by the eMedNY computer system. The review has identified instances where, based upon claims you submitted to the New York Medicaid program, Medicaid payments received for a dual eligible recipient were not subsequently voided by the eMedNY system, resulting in overpayments. The purpose of the audit was to ascertain whether overpayments were made.

LAWS, REGULATIONS, RULES AND POLICIES

The following are applicable Laws, Regulations, Rules, and Policies of the Medicaid program referenced when conducting this audit:

- Department 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 ("MMIS") and eMedNY Provider Manual.

- Department 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)]. Specifically:

  Regulations state: "When the department has determined that any person has submitted or caused to be submitted claims for medical care, services or supplies for which payment should not have been made, it may require repayment of the amount determined to have been overpaid." Regulations also 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(b) and (c)

> Medicaid policy states: "Effective December 2009, New York State Medicaid implemented an automated Medicare crossover process so providers will no longer have to bill New York Medicaid separately for the Medicare deductible, coinsurance or co-pay amounts for Medicare beneficiaries covered by Medicare Parts A & B. These types of claims are now sent directly by Medicare to New York Medicaid for processing and payment."
>
> *DOH Medicaid Update, January 2010, Vol. 26, No. 1*

> Medicaid policy states: "If a separate claim is submitted directly by the provider to Medicaid for a dual eligible client and the claim is processed before the crossover claim from [Medicare], both the provider submitted claim and the crossover claim will be reimbursed. However, the eMedNY system will subsequently void the provider submitted claim."
>
> *DOH Medicaid Update, September 2009, Vol. 25, No. 11*

> Medicaid policy states: "Any claim indicated by Medicare as a crossover to Medicaid (MA 18-NY Medicaid) should not be submitted by the provider to Medicaid as a separate claim. If, however, the Medicare remittance does not indicate the claim has been crossed over to Medicaid, the provider should submit the claim directly to Medicaid.
>
> *DOH Medicaid Update, May 2011, Vol. 27, No. 6*

DETAILED FINDINGS

A draft audit report was issued on August 13, 2013 identifying instances where the Provider received Medicaid overpayments for claims on dual eligible recipients not subsequently voided by the eMedNY system. Although claim edits are in place in the eMedNY claim processing system to identify and subsequently void duplicate claims, the claims identified in this final audit report circumvented these edits.

Based on our final determination, the total amount of overpayment, as defined in 18 NYCRR §518.1, is $25,634.46.

As of the date of this final audit report, the Provider has submitted a check for $25,634.46 in repayment of the total amount of the findings identified in this audit. As a result, there is no balance remaining due the New York State Department of Health.

PROVIDER RIGHTS

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

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid program, take action where appropriate, and recover any associated overpayments. If you have any questions regarding the above, please contact or by email at Thank you for your cooperation.

Sincerely,

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

Attachment(s):
Exhibit 1 – Final Audit Report Medicare Crossover Claims

CERTIFIED MAIL #