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

DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

October 15, 2010

Brookdale Hospital Medical Center
[redacted]
One Brookdale Plaza
Brooklyn, New York 11212

FINAL AUDIT REPORT
Audit #2010Z59-015H
Provider [redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (the "OMIG") completed an audit of Medicaid claims paid Chemotherapy Services under specialty clinic rate code 3092 (Chemo Clinic Service). In accordance with Section 517.5 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.

Your response to the OMIG's July 30, 2010 draft report agreed with the audit findings. As a result, the disallowed services in the final report remain unchanged to those cited in the draft report. The total Medicaid overpayment is $9,484.42, 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 1237
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 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 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.

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

Questions concerning this audit may be directed to [redacted] at [redacted]

Sincerely,

[redacted]

Bureau of Business Intelligence
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

Brookdale Hospital Medical Center
One Brookdale Plaza
Brooklyn, NY 11212

AMOUNT DUE: $ 9,484.42

Provider [redacted]

AUDIT #2010Z59-015H

AUDIT TYPE	[X] PROVIDER [ ] RATE [ ] PART B [ ] 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 1237
File #2010Z59-015H
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

DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

FINAL REPORT

BROOKDALE HOSPITAL MEDICAL CENTER
ONE BROOKDALE PLAZA
BROOKLYN, NEW YORK 11212

CHEMOTHERAPY
#2010Z59-015H

ISSUED OCTOBER 15, 2010

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, [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 Chemotherapy clinic rate code 3092 is a specialty clinic rate established by the NYS Department of Health, Bureau of Primary and Acute Care Reimbursement (BPACR). This specialty clinic rate takes into account the specialized staff and equipment required to serve those in need of cancer treatment. The cost of providing these services exceeds the cost of delivering more routine diagnostic or treatment services.

Rate code 3092 allows the facility to bill separately for clinic-administered drugs under their ordered ambulatory category of service (0163 or 0282). Facilities that do not have this rate code can not bill drugs separately in addition to the clinic visit.

Rate code 3092 was established for the treatment of cancer only. Recipients undergoing testing for cancer or receiving treatments for other disorders are not eligible for this rate. However, the provider can expand usage of rate code 3092 for treatment of other disorders (e.g. hematology and anemia), through an agreement with the BPACR. Rate code 3092 can not be used to bill for such disorders without the approval of BPACR.

Chemotherapy service claims with payment dates from January 1, 2005 through December 31, 2008 were reviewed. The purpose of this review is to determine if clinics are appropriately using the 3092 chemotherapy rate code. Based on documentation received from BPACR, you are billing chemotherapy clinic services beyond the scope of your agreement. Disallowances are based on the difference between the enhanced chemotherapy rate and the general clinic rate.

Please note that due to the implementation of the National Provider Identifier (NPI) on September 1, 2008, there may be multiple Provider Identification Numbers associated with the Primary Provider Identification Number. The NPI is linked to the Primary Provider Identification Number. The Primary Provider Identification Number is used for correspondence and recoupment.

DETAILED FINDINGS

The detailed finding of our audit is as follows:

1. **Improper Billing Using 3092 Rate Code** *(Chemotherapy, Oncology, Oncology and Hematology or Oncology, Hematology and Anemia)*

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.(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 by OMIG of these overpayments.

18 NYCRR 518.1(c)

NYS Public Health Law states that the Commissioner may waive the maximum allowable payment and limitations on the rate of payment... to provide for the reimbursement of specialized services having separately identifiable costs and statistics, including but not limited to hemodialysis and surgical services provided on an outpatient basis.

NYS Public Health Law Section 2807 Sub-division Two

Exhibit I is a list of all Medicaid patients who have claims using the chemotherapy clinic rate code 3092. Rate code 3092 was used to bill for cancer treatments even though these patients do not have specific diagnostic codes associated with cancer. Use of the chemotherapy clinic rate code 3092 for patients without a cancer diagnosis code is not allowed.

In addition, Exhibit I contains claims for which rate code 3092 was used for the treatment of oncology/hematology/anemia. These claims do not have a BPACR waiver allowing the use of rate code 3092 with an oncology/hematology/anemia diagnosis. Use of the chemotherapy clinic rate code 3092 for patients without a cancer diagnosis code or BPACR waiver is not allowed.

Submitting these claims to Medicaid using the chemotherapy clinic rate code 3092 resulted in an overpayment of $8,356.37.

DETERMINATION

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 $1,128.05.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR 518.1(c) is $9,484.42, inclusive of interest.