



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

**REVIEW OF BLUE CHOICE/BLUE CHOICE OPTION
INCARCERATION MATCH
DATES OF SERVICE FROM JULY 1, 2009
THROUGH DECEMBER 31, 2010**

FINAL AUDIT REPORT

**James C. Cox
Acting Medicaid Inspector General
October 20, 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.

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**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
ACTING MEDICAID INSPECTOR GENERAL

October 20, 2011

[REDACTED]
Excellus Health Plan
165 Court Street
Rochester, NY 14647

Re: Final Audit Report
Audit # 11-2487
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 Blue Choice/Blue Choice Option (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.

After reviewing the Plan's April 20, 2011 response to the OMIG's March 24, 2011 draft report, and after receiving additional information regarding one individual's incarceration, the OMIG has reduced the draft report disallowances of \$136,288.31 to \$128,416.91 in the final report. A detailed explanation can be found under the Findings section.

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

In the draft report, the OMIG identified \$136,288.31 in capitation payments inappropriately paid to the Plan for Medicaid recipients who were incarcerated for the entire payment month. 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 Plan submitted documentation indicating that capitation payments totaling \$8,531.11 should be removed from the draft report findings (Attachment I). Subsequent communication with the Plan revealed that two of the months of service (November 2009 for CIN [REDACTED] and December 2009 for CIN [REDACTED] were erroneously included in the response and therefore those capitation payments, totaling \$659.71, remain in the audit findings (Attachment II). In addition, subsequent to the issuance of the draft report, the OMIG discovered additional information regarding the incarceration period of one of the individuals included in the draft report that the Plan had initially included in its response. The draft report had indicated that the individual had been incarcerated for the entirety of March 2010 when in fact he was only serving on weekends. As a result, the Plan was eligible for the capitation payment for that month and the payment, totaling \$502.42, has been removed from the audit findings (Attachment III). The payment had already been voided by the Plan (Attachment IV). Upon reviewing the remaining capitation payments disputed by the Plan, the OMIG found that they had all been voided in response to retro-disenrollment forms and those capitation payments, totaling \$7,368.98, have been designated as Recovered in Another Project and removed from the audit findings (Attachment V).

As a result, the total amount of overpayment, as defined in 18 NYCRR § 518.1, is \$128,416.91. The Plan submitted claim voids for all capitation payments included in the final report findings, and there is no amount due the New York State Department of Health (Attachment VI).

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