NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

REVIEW OF BRONX LEBANON HOSPITAL CENTER FAMILY PLANNING CHARGEBACK TO NETWORK PROVIDERS DATES OF SERVICE FROM JANUARY 1, 2008 THROUGH DECEMBER 31, 2008

FINAL AUDIT REPORT

James C. Cox
Medicaid Inspector General
October 10, 2012

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
MEDICAID INSPECTOR GENERAL

October 10, 2012

[redacted]
Bronx Lebanon Hospital Center
1276 Fulton Ave.
Bronx, NY 10456

Re: Final Audit Report
Audit # 12-4312
Provider # [redacted]

Dear [redacted]:

The New York State Office of the Medicaid Inspector General (OMIG) performed an audit of Medicaid payments for family planning and reproductive health services paid to Bronx Lebanon Hospital Center (Provider), on behalf of Medicaid beneficiaries while they were enrolled in Neighborhood Health Providers (Plan). In accordance with Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 517.6, this final audit report represents the final determination on the issues found during the OMIG's review.

The OMIG received the Provider's September 11, 2012 response to the OMIG's July 19, 2012 draft audit report. After reviewing the response, the findings in the final audit report remain unchanged from those cited in the draft audit report, with overpayments, inclusive of interest, of $ 5,964.38.

BACKGROUND, PURPOSE AND SCOPE

The New York State Department of Health (DOH) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an entity within DOH, the OMIG conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at assessing provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth by the New York Public Health Law, New York Social Services Law, the regulations of the Department of Health (Titles 10 and 18 of the NYCRR), the regulations of the Office of Mental Health (Title 14 of the NYCRR), the Department of Health's Medicaid Provider Manuals, *Medicaid Update* publications and the Medicaid Managed Care/Family Health Plus Model/HIV Special Needs Plan Model Contract (Medicaid Managed Care Contract).

Federal Medicaid law prohibits any restrictions to access by Medicaid recipients for family planning services. Accordingly, the DOH requires that all participating managed care organizations (MCO) ensure individuals of childbearing age have access to the full range of family planning and reproductive health services from any qualified provider that undertakes to provide such services.

Pursuant to the Medicaid Managed Care Contract Appendix C, if the managed care organization (the Plan) chooses to receive a monthly capitation payment for covered services which includes family planning and reproductive services, the Plan is subsequently responsible to reimburse its network providers for these services provided to the Plan's Medicaid enrollees. Under these circumstances, the participating network provider is required to bill the Plan with whom the Provider has signed a network contract. This is also in accordance with 18 NYCRR 540.6(e) which explains the servicing provider's responsibility to ascertain the legal liability of third parties to pay for medical care and services.

The purpose of this audit was to ensure that the Provider was in compliance with 18 NYCRR 540.6(e) and Medicaid Managed Care Contract Appendix C, and to identify Medicaid payments associated with family planning and reproductive health services that should not have been billed fee-for-service by the Provider, but rather reimbursed to the Provider by the Plan. The review period includes dates of service for January 1, 2008 through December 31, 2008.

FINDINGS

During the course of the OMIG's family planning and reproductive health services claim review with the Plan the OMIG received contractual documents from the Plan that verified the Provider had a participating provider agreement with the Plan to provide services to their enrollees between January 1, 2008 and December 31, 2008 (Attachment I). As a result of this contractual arrangement, the Plan is responsible for reimbursing the Provider for the family planning and reproductive health services provided to the Plan's enrollees during this time period. The Provider submitted a response disputing the claims identified in the draft audit report, indicating that they did not have evidence of the recipients' managed care coverage at the time of service. A review of the Mobius card-swipe system showed that the Provider had swiped the card of these Medicaid recipients on or near the dates of service identified on the draft report and received a response of 'Elig PCP,' indicating that the individuals were enrolled in a managed care organization (Attachment II). Due to these facts, the Provider should have billed the Plan, not Medicaid, and the findings remain unchanged from those cited in the draft report.

The final audit report found that the Provider inappropriately billed Medicaid $ 5,254.65 for family planning and reproductive health services that were rendered to the Plan's enrollees between January 1, 2008 and December 31, 2008 (Attachment III); a period the Provider had a participating provider contractual agreement with the Plan. As a result, NYCRR 540.6(e) requirements were not met.

In accordance with 18 NYCRR 518.4, interest may be collected and will accrue at the current rate from the date of the overpayment. For the overpayments identified in Attachment II, the OMIG has determined that accrued interest of $709.73 is owed.

Based on this determination, the total amount of overpayment listed on Attachment II, as defined in 18 NYCRR 518.1(c) is $5,964.38, inclusive of interest (Attachment III). Repayment of $5,964.38 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 audit report. The check should be made payable to the **New York State Department of Health**, include the audit number, and be sent with the attached Remittance Advice to:

New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
Albany, New York 12237-0016

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 audit 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 audit 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:

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

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 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 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 within sixty (60) days of the date of this notice to:

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

Questions regarding the request for a hearing should be directed to [redacted], Office of Counsel, at [redacted]

At the hearing you have the right to:

a) Be represented by an attorney or other representative, or to represent yourself;
b) Present witnesses and written and/or oral evidence to explain why the action taken is wrong;
c) Cross examine witnesses of the Department of Health and/or the OMIG; and
d) Have an interpreter if you do not speak English or are deaf.

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

Enclosures

CERTIFIED MAIL # [redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE	PROVIDER #	[redacted]
Bronx Lebanon Hospital Center 1276 Fulton Ave. Bronx, NY 10456	AUDIT #	12-4312
	PROVIDER TYPE	☐ Fee For Service ☐ Rate - LTC ☐ Rate - NH X Managed Care ☐ Other
AMOUNT DUE: $ 5,964.38		

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 2739
Albany, New York 12237-0016

Thank you for your cooperation.