



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

**REVIEW OF AFFINITY HEALTH PLAN, INC.
RETROACTIVE DISENROLLMENT VOIDS DUE OVER 90 DAYS BASED ON
NYSDOH/MANAGED CARE QUARTERLY RETROACTIVE
DISENROLLMENT PREMIUM RECOVERY REPORT FOR THE
FIRST QUARTER OF 2012**

FINAL AUDIT REPORT

**James C. Cox
Medicaid Inspector General
October 7, 2013**

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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 7, 2013

[REDACTED]
Affinity Health Plan, Inc.
2500 Halsey Street
Bronx, NY 10461

Re: Final Audit Report
Audit # 13-1650
Provider # [REDACTED]

Dear [REDACTED]

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid and Family Health Plus capitation payments made to Affinity Health Plan, Inc. (Plan) which the Plan was later instructed to return because the enrollees were retroactively disenrolled from the Plan. The OMIG review determined that the Plan had failed to return the payments. In accordance with Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), this report represents the final determination on the issues found during the OMIG's review.

After reviewing the Plan's July 7, 2013, response to the OMIG's March 6, 2013, Draft Audit Report, as well as any information/documentation submitted, the OMIG has considered the documentation and the Final Audit Report has been revised. Consideration of the documentation resulted in an overall reduction of \$80,757.89 to the total Medicaid overpayment shown in the Draft Audit Report. A detailed explanation can be found in the Findings section.

BACKGROUND

The New York State Department of Health (the Department) is responsible for the administration of the Medicaid program. As part of its responsibility as an entity within the Department, 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 in 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), and the Department's Medicaid Provider Manuals, *Medicaid Update* publications and Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

In accordance with 18 NYCRR Parts 517 and 518 and pursuant to the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums) and Appendix H, the OMIG, on behalf of the Department, has the right to recover premiums paid to the Contractor for enrollees listed on the monthly roster who are later determined to have been ineligible 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 and subsequently the enrollee was retroactively disenrolled for the entire payment month. Following notification of the retroactive disenrollment by the local district and the Department's Division of Health Plan Contracting and Oversight via the Quarterly Retroactive Disenrollment Premium Recovery Report, the Plan has not voided the capitation payments. The scope of the audit includes all retroactive disenrollment capitation payments with dates of service beginning with January 1, 2007, listed on both the Third and Fourth Quarter Quarterly Retro Disenrollment Premium Recovery Reports for 2011.

FINDINGS

A Draft Audit Report was issued March 6, 2013, identifying \$169,824.90 in overpaid capitation payments made to the Plan when it failed to return the monthly capitation payments associated with enrollees who were retroactively disenrolled for the entire payment month. In response to the Draft Audit Report the Plan submitted documentation contesting a portion of the claims. Upon reviewing the documentation, the OMIG agreed with the Plan and reduced the overpayments in the Draft Audit Report by \$80,757.89 (Attachment I). As a result the Final Audit Report identified an overpayment of \$89,067.01. As stated in the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums), Appendix H, and 18 NYCRR Parts 517 and 518, the OMIG has a right to recover overpayments paid to the Plan for enrollees listed on the monthly roster who are later determined to have been ineligible for the entire applicable payment month.

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 date of the overpayment. Interest was calculated on the overpayments identified in the Final Audit Report using a Federal Reserve Prime Rate of 3.25%, from the date of overpayment to the date of the Draft Audit Report. For the overpayments identified the OMIG has determined that accrued interest of \$6,310.74 (Attachment II) is owed.

The total amount of overpayment, inclusive of interest, as defined in 18 NYCRR 518.1, is \$95,377.75 (Attachment II – Claim Amount column plus Interest column). Subsequent to the issuance of the Draft Audit Report, the Plan submitted voids for 247 claims in the amount of \$87,199.39 (Attachment III), leaving eleven claims in the amount of \$1,867.62 remaining to be recovered (Attachment IV).

The total amount of the overpayment inclusive of interest and exclusive of claim voids leaves a balance of \$8,178.36 (Attachment III plus Attachment IV – Total Amount Due columns) due the New York State Department of Health.

PAYMENT OPTIONS

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

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OPTION #1: Make 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 with audit number included and be sent with the attached Remittance Advice to:

[REDACTED]
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

[REDACTED]
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.

PROVIDER 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 519.18(a), "The issues and documentation considered at the hearing are limited to issues directly relating to the final determination.

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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 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. To obtain the password for the enclosed disc, please contact [REDACTED] or by email at [REDACTED]

Thank you for your cooperation.

Sincerely,

[REDACTED]
Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachments (4)

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

**NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE**

NAME AND ADDRESS OF AUDITEE

Affinity Health Plan, Inc.
2500 Halsey Street
Bronx, NY 10461

AMOUNT DUE: \$8,178.36

PROVIDER [REDACTED]

AUDIT # 13-1650

**PROVIDER
TYPE**

- Fee For Service
- Rate - LTC
- Rate - NH
- Managed Care
- 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]
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.