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

REVIEW OF JONATHAN SCHWARTZ, MD
FAMILY PLANNING CHARGEBACK TO
NETWORK PROVIDERS
DATES OF SERVICE FROM JANUARY 1, 2006
THROUGH DECEMBER 31, 2006

FINAL AUDIT REPORT

James G. Sheehan
Medicaid Inspector General
September 9, 2010

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

September 9, 2010

Jonathan Schwartz, MD
1365 Washington Ave. Suite 201
Albany, NY 12206-1068

Re: Final Audit Report
Audit # 10-2780
Provider # [redacted]

Dear Dr. Schwartz:

The New York State Office of the Medicaid Inspector General (the "OMIG") performed an audit of of Medicaid payments for family planning and reproductive health services paid to Jonathan Schwartz, MD (the "Provider"), on behalf of Medicaid beneficiaries while they were enrolled in CDPHP (the "Plan"). 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.

The OMIG issued a draft report on June 3, 2010 identifying disallowances, inclusive of interest, of $642.71. The final report findings remain unchanged from the findings cited in the draft audit report. The Provider submitted a check for the full amount identified in the draft report, $642.71, and as a result, there is no remaining amount due.

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 report. The check should be made payable to the New York State Department of Health 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 1237
Albany, New York 12237-0016

OPTION #2: Enter into a repayment agreement with the Office of the Medicaid Inspector General. 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

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.

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] 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

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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BACKGROUND, PURPOSE AND SCOPE

Pursuant to Title XIX of the Social Security Act, the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The federal and state governments jointly fund and administer the Medicaid program. In New York State, the Department of Health (DOH) administers 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.

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

The following is pursuant to the terms of the Medicaid managed care contract signed between the MCO and the local district. If the MCO chooses to receive a monthly capitation payment for covered services, which includes family planning and reproductive health services, the MCO is subsequently responsible to reimburse their network providers for these services provided to the MCO Medicaid enrollees. For family planning and reproductive health services delivered by non-network providers of the MCO, it is the responsibility of the MCO to reimburse Medicaid for those payments that Medicaid disbursed directly to a non-network provider.

FINDINGS

During the course of the OMIG's family planning and reproductive health services claim review with CDPHP (the "Plan") the OMIG received contractual documents from the Plan that verified Jonathan Schwartz, MD (the "Provider") had a participating provider agreement with the Plan to provide services to their enrollees for the year ending December 31, 2006 (Attachment II). As a result of this contractual arrangement, the Plan, and not Medicaid, is responsible to reimburse the Provider for the family planning and reproductive health services provided to the Plan's enrollees during this time period.

The audit found that the Provider inappropriately billed Medicaid $ 524.00 for family planning and reproductive health services that were rendered to the Plan's enrollees for the year ending December 31, 2006 (Attachment I); a period the Provider had a participating provider contractual agreement with the Plan. As a result §515.2 and §540.6 requirements were violated.

In accordance with 18 NYCRR Section 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 I, the OMIG has determined that accrued interest of $118.71 is owed.

Based on this determination, the total amount of overpayment, as defined in 18 NYCRR §518.1 is $642.71, inclusive of interest (Attachment I). The Provider submitted a check for $642.71, and therefore there is no amount due at this time.