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

# REVIEW OF MVP HEALTH PLAN, INC. CAPITATION PAYMENTS FOR DECEASED MANAGED CARE ENROLLEES

## FINAL AUDIT REPORT

**James C. Cox**
**Acting Medicaid Inspector General**
**September 8, 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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ATTACHMENTS

ATTACHMENT I – Provider Response to Draft
ATTACHMENT II – Claims Remaining to be Recovered

**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

September 8, 2011

[redacted]
MVP Health Plan, Inc.
[redacted]
625 State Street
Schenectady, NY 12305

Re: Final Report
Audit #: 11-4962
Provider ID #: [redacted]

Dear [redacted]

The New York State Office of the Medicaid Inspector General (the "OMIG") performed an audit of Medicaid and Family Health Plus capitation payments made to MVP Health Plan, Inc. (the "Plan") for deceased enrollees. 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 August 22, 2011 response to the OMIG's July 27, 2011 draft report, the findings in the final report have changed in relation to those cited in the draft report. A detailed explanation of the OMIG's findings is included in the final report.

## 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 (10 NYCRR, 14 NYCRR, 18 NYCRR)] and the Medicaid Provider Manuals.

In accordance with 18 NYCRR Part 518 and pursuant to 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 deceased for the entire applicable payment month.

## PURPOSE AND SCOPE

The purpose of the audit was to identify instances where the Plan received a monthly capitation payment from Medicaid for dates of service following the enrollee's death. These cases were identified by a computerized match comparing Medicaid and Family Health Plus managed care enrolled recipients to New York State and New York City Vital Statistic death record information. The review includes all dates of death reported through December 31, 2010 to Vital Statistics.

## FINDINGS

The audit found that $39,890.32 was billed by the Plan to Medicaid for capitation payments made following the enrollee's month of death. 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 deceased for the entire applicable payment month. The Plan, in an August 22, 2011 response to the draft report, stated that they disputed the audit findings (Attachment I). The plan subsequently agreed that this claim was not paid appropriate and will remain in the final report. As a result, the findings in the final report remain unchanged to those cited in the draft report and the total amount of overpayment, as defined in 18 NYCRR 518.1 is $39,890.32 (Attachment II) and 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 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 attached Remittance Advice to:

New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 1237
File # 11-4962
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:

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 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.

**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), 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

Questions regarding a request for a hearing should be directed to Office of Counsel at

Issues you may raise shall be limited to those issues relating to determinations contained in the final audit report. Further, issues must be limited to those you raised in any written response to the draft audit report. The hearing may not address issues regarding the methodology used to determine the rate, or any issue that was raised at a proceeding to appeal a rate determination.

At the hearing, the Plan has 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.

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid Program, take action where appropriate, and recover monies owed through the initiation of a civil lawsuit or other legal mechanisms including but not limited to the recovery of state tax refunds pursuant to Section 206 of the Public Health Law and Section 171-f of the State Tax Law.

If the Plan has any questions regarding the above, please contact at or email at

Sincerely,

Bureau of Managed Care Audit & Provider Review
Office of the Medicaid Inspector General

Enclosure
CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**

**MVP Health Plan, Inc.**
[redacted]
**625 State Street**
**Schenectady, NY 12305**

**AMOUNT DUE: $39,890.32**

**PROVIDER #** [redacted]

**AUDIT # 11-4962**

**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 1237
Albany, New York 12237-0016

*Thank you for your cooperation.*