



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

**REVIEW OF HEALTH PLUS PHSP INC  
RETRO DISENROLLMENT DUE TO PLACEMENT IN  
RESIDENTIAL/LONG TERM HEALTH CARE FACILITY  
DATES OF PLACEMENT FROM JANUARY 1, 2010  
THROUGH DECEMBER 31, 2010**

**FINAL AUDIT REPORT**

**James C. Cox  
Medicaid Inspector General  
October 24, 2012**

## **OFFICE OF THE MEDICAID INSPECTOR GENERAL**

[www.omig.ny.gov](http://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 24, 2012

[REDACTED]  
Health Plus, Inc.  
241 37<sup>th</sup> Street # 412  
Brooklyn, NY 11232

Re: Final Audit Report  
Audit # 12-4426  
Provider # [REDACTED]

Dear [REDACTED]:

The New York State Office of the Medicaid Inspector General (OMIG) has identified Medicaid monthly capitation payments made to Health Plus, Inc (the "Contractor") that were determined to be recoverable based on the enrollee's retroactive disenrollment from the Contractor and permanent placement into a Residential/Long Term Health Care Facility. In accordance with the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract and 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 regarding capitation payments made on behalf of enrollees retroactively disenrolled due to placement in a Residential/Long Term Health Care Facility found during the OMIG's review.

After reviewing Health Plus' July 26, 2012 response to OMIG's July 5, 2012 Draft Audit Report, your comments have confirmed the audit findings. As a result, the findings in the Final Audit Report remain unchanged to those cited in the Draft Audit Report.

**BACKGROUND**

The New York State Department of Health (SDOH) is the state agency responsible for the administration of the Medicaid program. As part of its responsibility as an entity within SDOH, 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 in New York Public Health Law, New York Social Services Law, the regulations of the Department of Health (Titles 10 and 18 of NYCRR), the regulations of the Office of Mental Health (Title 14 of NYCRR), and the Department of Health's Medicaid Provider Manuals, *Medicaid Update* publications and the Medicaid Managed Care/Family Health Plus/HIV Special Needs Plan Model Contract (Contract).

In accordance with 18 NYCRR Part 518 and pursuant to Section 3.6 of the Contract (Compensation – State Department of Health Right to Recover Premiums) and Appendix H, the OMIG on behalf of SDOH, 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 Contractor received a capitation payment from Medicaid and subsequently the enrollee was retroactively disenrolled for the entire payment month following permanent placement in a Residential/Long Term Health Care Facility. The scope of the audit includes enrollees permanently placed in a Residential/Long Term Health Care Facility for the period of January 1, 2010 to December 31, 2010.

### **FINDINGS**

A Draft Audit Report was issued on July 5, 2012 identifying \$113,447.30 in overpaid capitation payments made to the Contractor and not subsequently returned to Medicaid when the enrollee was retroactively disenrolled from the Contractor due to permanent placement in a Residential/Long Term Health Care Facility. The response from the Contractor to the July 5, 2012 Draft Audit Report which was received August 9, 2012 corroborates with OMIG's findings (Attachment I). As a result, the findings in the Final Audit Report remain unchanged to those cited in the Draft Audit Report. As stated in the Contract, Section 3.6 (Compensation – State Department of Health Right to Recover Premiums) and Appendix H and 18 NYCRR Parts 517 and 518, the OMIG has a right to recover overpayments 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.

The total amount of overpayment, as defined in 18 NYCRR § 518.1(c) is \$113,447.30. Subsequent to the issuance of the Draft Audit Report, the Contractor voided claims in the amount of \$113,447.30 (Attachment II). Therefore, there is no balance due the New York State Department of Health (Attachment III).

### **HEARING RIGHTS**

The Contractor 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 report or notice of proposed agency action."

If the Contractor 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

CERTIFIED MAIL # [REDACTED]  
RETURN RECEIPT REQUESTED