

STATE OF NEW YORK: DEPARTMENT OF HEALTH

In the Matter of the Request of

Raga Massih, M.D.
Provider # 00425874

DECISION
Audit #16-5878

for a hearing pursuant to Title 18 of the Official
Compilation of Codes, Rules and Regulations
of the State of New York (18 NYCRR Part 519)

Before: Jean T. Carney
Administrative Law Judge

Parties: New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204
By: Mara Pandolfo, Esq.

Raga Massih, M.D., Pro se Appellant

Jurisdiction

Pursuant to New York State Public Health Law (PHL) § 201(1)(v) and New York State Social Services Law (SSL) § 363-a, the Department of Health (Department) acts as the single state agency to supervise the administration of the medical assistance program (Medicaid) in New York State. The Office of the Medicaid Inspector General (OMIG), an independent office within the Department, has the authority pursuant to PHL §§ 30, 31 and 32, to pursue administrative enforcement actions against any individual or entity that engages in fraud, abuse, or unacceptable practices in the Medicaid program and to recover improperly expended Medicaid funds.

This matter was referred to the Bureau of Adjudications for a ruling on whether Dr. Massih (Appellant) timely requested a hearing to review an OMIG determination to recover Medicaid overpayments on audit #16-5878, with a Final Report dated June 15, 2017.

Submissions

The Administrative Law Judge (ALJ) presiding over this matter directed the OMIG to submit any documents for consideration by June 26, 2018, and the Appellant was to submit responding documents by July 10, 2018. The following OMIG submissions were received on June 25, 2018:

ALJ I - Correspondence from OMIG dated June 13, 2018;

Attachment A - Correspondence dated September 29, 2017 from Dr. Massih requesting a hearing; and

Attachment B – Final Audit Report dated June 15, 2017.

As of the close of business on July 10, 2018, no submissions had been received from the Appellant, and the record was closed.

Issue

Is the Appellant entitled a hearing on audit #16-5878?

Facts

1. The OMIG conducted an audit examining the Appellant's supporting documentation regarding payment for the adoption, implementation, or upgrade to a certified Electronic Health Record (EHR) system during the calendar year ending December 31, 2013. (Attachment B)

2. On June 15, 2017, the OMIG issued a Final Audit Report, finding at least one error, for a total overpayment of \$21,250. (Attachment B)

3. By letter dated September 29, 2017, Dr. Massih requested a hearing to review the Final Audit Report.

4. By letter dated June 13, 2018, the OMIG requested a ruling from the ALJ regarding whether Dr. Massih's request was timely made. (ALJ I)

Discussion

A request for a hearing may be made within 60 days of the date of the final determination by the person requesting review, or by anyone on that person's behalf. (18 NYCRR 519.7[a]). Any clear, written communication requesting review of the final determination is a request for a hearing. (18 NYCRR 519.7[a]). In this case, the date of the final determination was June 15, 2017. Dr. Massih did not submit his request for a hearing, or any other written communication requesting review of the OMIG's overpayment determination, until September 29, 2017, well past the regulatory 60-day limit. Therefore, Dr. Massih's request for a hearing was untimely.

Decision

Appellant's request for a hearing on audit #16-5878 is denied.

This Decision is made pursuant to the designation by the Commissioner of Health of the State of New York to render final decisions in hearings involving Medicaid provider audits.

Albany, New York
July 13, 2018

Jean T. Carney
Administrative Law Judge