



## Department of Health

KATHY HOCHUL  
Governor

MARY T. BASSETT, M.D., M.P.H.  
Commissioner

KRISTIN M. PROUD  
Acting Executive Deputy Commissioner

July 14, 2022

### CERTIFIED MAIL/RETURN RECEIPT

Ferlande Milord, Esq.  
Office of the Medicaid Inspector General  
90 Church Street, 14<sup>th</sup> Floor  
New York, New York 10007

Rite Surgical Supplies, Inc.  
c/o Mayer Zorchi, President  
266 47<sup>th</sup> Street  
Brooklyn, New York 11220

**RE: In the Matter of Rite Surgical Supplies Inc.**

Dear Parties:

Enclosed please find the Decision After Hearing in the above referenced matter.

If the appellant did not win this hearing, the appellant may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the appellant wishes to appeal this decision, the appellant may wish to seek advice from the legal resources available (e.g. the appellant's attorney, the County Bar Association, Legal Aid, OEO groups, etc.). Such an appeal must be commenced within four (4) months after the determination to be reviewed becomes final and binding.

Sincerely,

Sean D. O'Brien  
Acting Chief Administrative Law Judge  
Bureau of Adjudication

SDO:nm  
Enclosure

STATE OF NEW YORK  
DEPARTMENT OF HEALTH

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COPY

In the Matter of the Appeal of

**RITE SURGICAL SUPPLIES INC,**

*Appellant,*

To review the determination of the Department to recover  
Medicaid overpayments for the period  
January 1, 2006 through December 31, 2007.

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Provider #: 01645550

Project #: 08-3380

Before: Kimberly A. O'Brien, Esq.  
Administrative Law Judge

Held: WebEx Videoconference  
July 13, 2022

Parties: Office of the Medicaid Inspector General  
90 Church Street, 14<sup>th</sup> Floor  
New York, New York, 10007  
By Ferlande Milord, Esq.

Rite Surgical Supplies, Inc.  
C/o Mayer Zorchi, President  
266 47<sup>th</sup> Street  
Brooklyn, New York, 11220

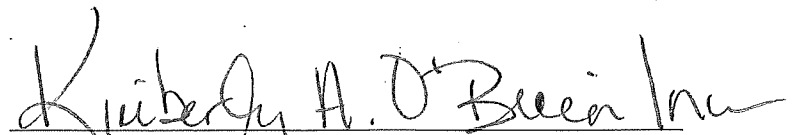
The New York State Department of Health ("the Department") acts as the single state agency to supervise the administration of the Medicaid Program in New York State ("program" or "Medicaid"). The New York State Office of the Medicaid Inspector General ("OMIG"), an independent office within the Department, determined Rite Surgical Supplies Inc. ("Appellant"), 266 47<sup>th</sup> Street, Brooklyn, New York has received Medicaid overpayments as defined in 18 NYCRR 518. Pursuant to 18 NYCRR Part 518, OMIG has determined to seek restitution of Medicaid overpayments. OMIG's determination was communicated to the Appellant by

OMIG's Final Audit Report dated April 3, 2015 (Ex. 1). On or about May 13, 2015, Karen Martino Valle, Esq. ("Appellant's Counsel"), Tuczinski, Cavalier & Gilchrist PC, Albany, New York made a written request for a hearing (Ex. 2). Written notice of hearing in conformity with the requirements of 18 NYCRR 519.10 was sent to the Appellant. The hearing notice informed Appellant of the date, time and place of the hearing, right to request an adjournment, and manner and means by which adjournments could be requested and granted (Ex. 3).

Appellant's request to adjourn the hearing scheduled to commence on August 5, 2015 was granted and in March 2017 the matter was taken off the calendar in anticipation of settlement. In 2021 the OMIG contacted Appellant's Counsel who stated that she withdrew from representation of Appellant in or about 2019 and she reconfirmed this in June 2022 (Ex. 4). The OMIG requested that the matter be put back on the calendar. On June 9, 2022, Kimberly A. O'Brien, Esq., Administrative Law Judge issued a notice rescheduling the hearing for July 13, 2022, at 10:00 am, via WebEx (Ex. 5). The OMIG appeared on July 13, 2022 ready to proceed. The Appellant failed to appear at the hearing and did not request that the hearing be rescheduled, and the hearing was not rescheduled.

Pursuant to 18 NYCRR Section 519.12(a), a request for a hearing is abandoned if the hearing has not been rescheduled and the Appellant does not appear at the hearing on the scheduled date. As the hearing was not rescheduled and the Appellant did not appear at the hearing on the scheduled date, this administrative proceeding is deemed abandoned.

DATED: July 14, 2022  
Albany, New York

  
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Kimberly A. O'Brien  
Administrative Law Judge