

STATE OF NEW YORK: DEPARTMENT OF HEALTH

In the Matter of the Request of

Dr. Marcriid Ardashes Garjarian
Provider # 01928638


DECISION
Audit #16-6749

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
90 Church Street
New York, New York 10007
By: Harry Glick, Esq.

Dr. Marcriid Ardashes Garjarian, 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. Garjarian (Appellant) timely requested a hearing to review an OMIG determination to recover Medicaid overpayments on audit #16-6749, with a Final Report dated May 11, 2017.

Submissions

OMIG 1: Correspondence from OMIG dated March 29, 2018, requesting a ruling on timeliness;

Attachment 1: Undated correspondence from Appellant, received at NYS OMIG Division of Counsel on August 17, 2017, requesting a hearing; and

Attachment 2: Final Audit Report dated May 11, 2017.

ALJ I: Correspondence from Chief Administrative Law Judge Horan informing the parties that the record would be kept open until July 3, 2018, to give the Appellant an opportunity to respond.

Issue

Is the Appellant entitled to a hearing on audit #16-6749?

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 2)

2. On May 11, 2017, the OMIG issued a Final Audit Report, finding at least one error, for a total overpayment of \$21,250. (Attachment 2)

3. By letter received on August 17, 2017, the Appellant requested a hearing to review the Final Audit Report. (Attachment 1)

4. By letter dated March 29, 2018, the OMIG requested a ruling from the ALJ regarding whether the Appellant's request was timely made. (OMIG 1)

5. By letter dated June 19, 2018, the parties were notified that the Appellant would be given until July 3, 2018 to respond to the OMIG's request. As of the close of business on July 3, 2018, no response had been received from the Appellant, and the record was closed. (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 May 11, 2017. Dr. Garjarian did not submit her request for a hearing, or any other written communication requesting review of the OMIG's overpayment determination, until August 17, 2017, well past the regulatory 60-day limit. Therefore, Dr. Garjarian's request for a hearing was untimely.

Decision

Appellant's request for a hearing on audit #16-6749 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 30, 2018

Jean T. Carney
Administrative Law Judge