

cc: Ms. Daniels Rivera by Scan
Ms. Mailloux by Scan
Ms. Bordeaux by Scan
Mr. Cohen by Scan
BOA by scan
SAPA File



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

June 1, 2026

CERTIFIED MAIL/RETURN RECEIPT

Timothy Osho, Esq.
NYS Office of the Medicaid Inspector General
90 Church Street, 14th Floor
New York, New York 10007

Andrey Dovletov
Corporate Compliance Officer
Garnet Health
707 East Main Street
Middletown, New York 10940

RE: In the Matter of Garnet Health Medical Center

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,

A handwritten signature in cursive script that reads "Natalie J. Bordeaux".

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB: cmg
Enclosure

**STATE OF NEW YORK
DEPARTMENT OF HEALTH**

COPY

In the Matter of the Appeal of
Garnet Health Medical Center
Medicaid ID: 02997051
from a determination by the NYS Office of the Medicaid
Inspector General to recover Medicaid Program overpayments.

**Decision After
Hearing**

Audit No.: 24-5268

Before: Natalie Bordeaux
Administrative Law Judge

Held via: Webex videoconference

Hearing Date: May 1, 2026

Parties: New York State Office of the Medicaid Inspector General
90 Church Street, 14th Floor
New York, New York 10007
By: Timothy Osho, Esq.

Garnet Health Medical Center
707 East Main Street
Middletown, New York 10940
By: Andrey Dovletov, Corporate Compliance Officer

JURISDICTION

The Department of Health (Department) acts as the single state agency to supervise the administration of the Medicaid Program in New York. 42 USC § 1396a; Public Health Law (PHL) § 201(1)(v); Social Services Law (SSL) § 363-a. The OMIG is an independent office within the Department with the authority to pursue civil and administrative enforcement actions against any individual or entity that engages in fraud, abuse, or illegal or improper acts or

unacceptable practices perpetrated within the Medicaid Program. Such actions may include the recovery of improperly expended Medicaid funds. PHL §§ 30-32.

The OMIG determined to seek restitution of payments made to Garnet Health Medical Center (Appellant) for Health Care and Mental Hygiene Worker Bonus claims deemed to have been ineligible for payment. The Appellant requested a hearing pursuant to SSL § 145-a and Department of Social Services (DSS) regulations at 18 NYCRR § 519.4 to review the OMIG's determination.

HEARING RECORD

OMIG witness: Echo Mok, Auditor 2

OMIG exhibits: 1-8

Appellant witnesses: Lauren Carberry, Chief Human Resources Officer
Kristine Kirkwood, Human Resources Business Partner

Appellant exhibits: A, C

A transcript of the hearing was made. (T 1-76.) The record closed immediately after the hearing ended.

FINDINGS OF FACT

1. At all times relevant hereto, the Appellant was a hospital licensed under PHL Article 28, located in the Catskills, and enrolled as a provider in the New York State Medicaid Program. (Exhibits 1, 2, 4; T 59.)

2. By letter dated August 1, 2024, the OMIG advised the Appellant that it would conduct a review of the Appellant's records supporting its Health Care and Mental Hygiene Worker Bonus (HWB) claims paid by the New York State Medicaid Program from October 1, 2021 through March 31, 2024. To facilitate the OMIG's review, the Appellant was asked to provide the following information by August 29, 2024:

- W-2s, W-4s, 1099s, 1098 forms and yearly payroll summaries
- Employment start date and end date at the provider
- Job descriptions, titles, licenses, and/or employee credentials
- Payroll, timecards/attendance records and wage reporting statements for the review period
- Disbursement journal detail and bank statement[s] confirming bonus payments to employees
- Any workpaper used to determine eligibility for the [HWB] claims filed

(Exhibit 1.)

3. In response to the OMIG's request, the Appellant submitted documentation to support its HWB claims, including a one-page job description of the job title "Health Information Specialist", which was not signed by any employee and was revised in April 2024, the month immediately following the last period for which the Appellant submitted HWB claims for reimbursement. (Exhibits 5-7, T 37, 39.)

4. On December 3, 2025, the OMIG issued a draft audit report to the Appellant, advising that, on review of 876 HWB claims totaling \$1,039,000, the OMIG identified 14 claims with at least one error, resulting in a total overpayment of \$18,300.50. The disallowed claims were organized into the following categories:

1. Employer Failed to Maintain Tracking Records (samples 83, 207, 208, 408, 409, 520, 603 and 677.)
2. Bonus Incorrectly Paid to an Ineligible Employee (samples 291, 292, 336, 337, 489 and 490.)
3. Employee Not on Payroll Voluntarily When Bonus was Received by the Employer (samples 520, 603 and 677.)

(Exhibit 2.)

5. On December 24, 2025, the Appellant submitted its response to the draft audit report, in which it contested the OMIG's determinations in disallowance category 2. (Exhibit 3.)

6. On January 29, 2026, the OMIG issued a final audit report to the Appellant, which advised that, after considering the Appellant's response to the draft audit report, the

OMIG's determination remained unchanged, including the total overpayment of \$18,300.50.

(Exhibit 4.)

7. On February 26, 2025, the Appellant requested a hearing to contest the findings in disallowance category 2. (Exhibit 8.)

ISSUE

Was the OMIG's determination to disallow and recover overpayments from the Appellant for HWB payments made to employees as described in disallowance category 2 correct?

APPLICABLE LAW

The HWB Program was implemented to pay bonuses to certain front line health care workers who were continuously employed by a qualified employer for six-month periods ("vesting periods") between October 1, 2021 and March 31, 2024. SSL § 367-w(2)(d). For purposes of this program, an "employee" means certain front-line health care and mental hygiene practitioners, technicians, assistants and aides that provide hands on health or care services to individuals, to include, in relevant part: orderlies, medical assistants, clinical coordinators, all other health care support workers, other clinical staff/assistants and such titles as determined by the commissioner and approved by the direct of the budget. SSL §§ 367-w(2)(a)(i)-(iii).

In HWB Frequently Asked Questions (FAQs), the Department explained that "all other health care support workers" refers to other workers that are similar to the titles listed in this statute, and that support the provision of health care services to patients in front-line settings for these titles. Such workers must support patient-facing care provided within a patient care unit of a hospital or other institutional medical setting in support of treating and caring for patients. The FAQs list of eligible "all other health care support workers" includes the following clerk job

titles: Admitting Clerk, Admitting Clerk Cashier, Critical Care Clerk, Discharge Control Clerk, Emergency Services Clerk, Front Desk Clerk, Operating Room Clerk, Registration Clerk, Unit Clerk, and Ward Clerk. Eligible worker titles are also listed under SSL § 367-w(2)(a)(i) and (ii) and mirror titles from the Bureau of Labor Statistics (BLS) job listings and the State's Consolidated Fiscal Reporting and Claiming (CFR) manual or under the authority provided by SSL § 367-w(2)(a)(iii).

Employers were required to determine employee eligibility for the HWB before paying bonuses and seeking reimbursement from the Department and to maintain and make available upon request all records, data and information relied upon in determining that an employee was eligible for the HWB. SSL § 367-w(3)(c). Employers were required to track the number of hours employees worked during each vesting period and submit reimbursement claims for HWB payments to the Department. SSL § 367-w(3)(b)(i). The HWB claim submission process also required qualified employers to electronically sign an attestation confirming that the employer determined each employee included in the claiming process is eligible for the bonus.¹

Employers are required to maintain contemporaneous records for all tracking and claims related information and documents required to substantiate claims submitted for HWB payments for a period of no less than six years. They must furnish those records and claims related information, on request, to the OMIG. SSL §§ 367-w(3)(c)-(d).

The OMIG is tasked, in coordination with the Commissioner of Health, with conducting audits, investigations and reviews of employers required to submit claims for the HWB. Inappropriately paid HWB claims constitute overpayments pursuant to 18 NYCRR §§ 518.1(b)-

¹ https://www.health.ny.gov/health_care/medicaid/providers/hwb_program/docs/employer_attestation.pdf.

(c). SSL § 367-w(5). Hearings to review HWB overpayment determinations are conducted pursuant to 18 NYCRR Part 519. The Appellant has the burden of showing that the OMIG's determination was incorrect and that all claims submitted were due and payable. 18 NYCRR § 519.18(d)(1).

DISCUSSION

At the hearing, the OMIG presented the audit file and summarized the case, as required by 18 NYCRR § 519.17. The Appellant is contesting the second category of disallowances set forth in the final audit report.

Disallowance Category 2: Bonus Incorrectly Paid to an Ineligible Employee

The OMIG determined that in six instances pertaining to three employees, the HWB was incorrectly paid to an ineligible employee. (Exhibit 4.) The Appellant submitted the HWB claims in disallowed samples 291, 292, 336, 337, 489, and 490 for three employees with the given job title of Health Information Specialist. During the audit, the Appellant supplied a one-page job description for these six samples without any indicators that the individuals at issue were assigned the duties it listed. (T 37.) This job description was dated April 2024, the month immediately following the last vesting period for which the Appellant submitted HWB claims for employees with the Health Information Specialist title. (Exhibits 5-7.) Although Kristine Kirkwood, the Appellant's HR Business Partner, and Lauren Carberry, the Appellant's Chief Human Resources Officer, both testified that signed and dated job descriptions were placed in each employee's personnel records, neither explained why those were not provided to the OMIG. (T 65-68.)

At the hearing, the Appellant submitted an expanded job description for the Health Information Specialist, comprised of a total of four pages (with each page numbered "page _ of

4”) and materially different from that which it had previously submitted to the OMIG. (Exhibit C.) Nothing on the one-page job description provided to the OMIG during the audit indicated that additional pages were incorporated but omitted. The Appellant is responsible for providing information in the form of contemporaneous documentation responsive to the OMIG auditors’ requests. SSL §§ 367-w(3)(c)-(d). The expanded job description will not be considered in this decision. 18 NYCRR § 519.18(a)

The OMIG determined that the Appellant’s Health Information Specialists were not eligible for the HWB because the position “does not provide hands-on assistance with health services or medical care services.” (Exhibits 2, 4.) In its response to the draft audit report findings regarding the Health Information Specialist title, the Appellant asserted that those employees “had face-to-face interactions with patients during the pandemic for birth registry, releases of information (e.g., medical records), and rounding units for chart documentation.” The Appellant also stated that the Health Information Specialist’s duties are “very similar, if not identical, to a Unit Clerk on the DOH Table.” (Exhibit 3.)

Ms. Kirkwood testified that she believed the Health Information Specialists were eligible for the HWB because they worked hard during the COVID pandemic and took on unspecified tasks involving birth certificates. (T 57-58.) The audit finding is not that these employees did not work hard. It is the nature of their duties that is at issue.

The FAQs include “Unit Clerk” in the “all other health care support workers” category of eligible employees for Article 28 facilities, and explain that the “all other health care support workers” category refers to workers that support the provision of health care services to patients in front-line settings for these titles and must provide patient-facing care provided within a

patient care unit of a hospital or other institutional medical setting in support of treating and caring for patients.

A review of the job descriptions under the O*Net Online listings for “Unit Clerk” yields two titles applicable to health care in front-line settings: (1) Medical Secretaries and Administrative Assistants; and (2) Medical Assistants. Those job titles involve direct interactions with patients and front-line health care workers. Based on the documentation provided by the Appellant to the OMIG, the Health Information Specialist title is not analogous to the tasks performed under either title.

Andrey Dovletov, the Appellant’s Corporate Compliance Officer, contended that the list of eligible titles set forth in the FAQs included other titles that did not provide patient-facing care, including “food service worker” and “building construction aide”. (T 52.) He also argued that the Health Information Specialist position had more patient-facing interactions than regular clerks, the position referenced in the FAQs. (T 17.)

Employees who do not hold a title enumerated under “all other patient facing care support workers in Article 28 facilities” may still qualify for the HWB by establishing that the workers support the provision of health care services to patients in front-line settings for these titles or otherwise establishing the workers’ support or provision of patient-facing care. The Appellant’s submitted job description, even though revised after the vesting periods at issue, does not establish that the Health Information Specialist role supports the provision of health care services to patients in front-line settings in support of treating and caring for patients. The job description mentions “frequent contact with various Medical Center staff, employees and community members,” not frequent contact with patients. No description of such contact is provided, and no percentage of total work time was allocated to patient-facing care. The job

description, as provided to the OMIG, fails to establish that any such contact involves patient care in front-line settings.

The Appellant failed to provide documentation to substantiate its entitlement to payment of HWB claims in samples 291, 292, 336, 337, 489, and 490. Accordingly, the findings in disallowance category 2 are sustained.

DECISION

The OMIG's determination to recover overpayments from the Appellant for HWB payments made to ineligible employees as described in disallowance category 2 was correct and is affirmed.

Dated: May 29, 2026
Menands, New York



Natalie J. Bordeaux
Administrative Law Judge

To:

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