

STATE OF NEW YORK : DEPARTMENT OF HEALTH

In the Matter of the Appeal of

Island Wide Ambulette Service,
Medicaid ID # 01179280

For a Hearing Pursuant to Part 519 of Title 18 of the Official
Compilation of Codes, Rules and Regulations of the State of New
York to Review the Determination of the Department to Recover
\$1,708,489 in Medicaid Overpayments.

Audit #09-4083

COPY

Before: William J. Lynch
Administrative Law Judge (ALJ)

Held At: NYS Department of Health
90 Church Street
New York, New York 10007

Date: January 7, 2015

Parties: NYS Office of the Medicaid Inspector General
By: Steven Miller, Esq.
Office of Counsel
217 Broadway, 8th floor
New York, New York 10007

Island Wide Ambulette Service (Appellant)
No Appearance

JURISDICTION

This hearing pursuant to Section 519.4 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR") was requested by Debra Becker to

appeal a determination of the State of New York Office of the Medicaid Inspector General ("the OMIG") to recover \$1,708,489 in Medicaid overpayments made to Island Wide Ambulette Service for the period from July 1, 2003 through December 31, 2008.

The hearing was initially noticed to be heard on October 3, 2013. The ALJ and the parties agreed to adjourn the hearing on two occasions and established January 7, 2015, at 10:30 a.m., as the date and time for the hearing to commence. A letter confirming the date, time and location of the hearing was mailed to the parties, and a message was sent to their email addresses. On January 7, 2015, the OMIG appeared at 10:30 a.m. as scheduled and announced its readiness to proceed. The ALJ waited until 11:00 a.m. to open the record, but Appellant failed to appear. The OMIG presented the audit file and offered six exhibits which were admitted into evidence.


On January 13, 2015, the ALJ received an email from Steven Miller, the OMIG attorney, which was copied to Debra Becker, the president of Island Wide Ambulette Service. Mr. Miller stated that he had received a voicemail message from Ms. Becker alleging among other things that that she had closed the business on November 15, 2014, that she had recorded the hearing date incorrectly, and that she no longer had any staff to remind her what to do. Mr. Miller also forwarded an email from Ms. Becker in which she advised him of [REDACTED] that she was experiencing in November and December 2014. On that same afternoon of January 13, 2015, the ALJ send an email to Ms. Becker confirming that the hearing was held as scheduled on January 7, 2015 at 10:30 a.m., and that the appeal had been deemed abandoned; however, the ALJ further advised Ms. Becker that she could make a written application stating the reason for Appellant's default if she believed that the failure to appear should be excused. As of February 17, 2015, Appellant has made no response or application to vacate the default.

18 NYCRR 519.4(a)(2) entitles a person to a hearing anytime that the OMIG determines to

recover an overpayment. Under 18 NYCRR 519.12(a), a request for a hearing is deemed abandoned if the appellant does not appear at the hearing on the scheduled date. Appellant failed to appear on the scheduled date and has not made an application to vacate its default. Therefore, the ALJ concludes that Island Wide Ambulette Service has abandoned its challenge to the recovery.

This decision is made by William J. Lynch, who has been designated by the Commissioner of the New York State Department of Health to make such decisions.

Dated: February 17, 2015
Menands, New York



William J. Lynch, Esq.
Administrative Law Judge