

**STATE OF NEW YORK
DEPARTMENT OF HEALTH**

In the Matter of the Appeal of

INDEPENDENT BRONX CONSULTATION CENTER,

Appellant,

To review the determination of the Department to recover
\$200, 671.00 in Medicaid overpayments for the period
January 1, 2004 through December 31, 2005.

Provider #: 
Audit #: 06-1480

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

Held at: New York State Department of Health
90 Church Street, 4th Floor
New York, New York, 10001
April 24, 2012

Parties: Office of the Medicaid Inspector General
217 Broadway, 8th Floor
New York, New York, 10007
By Emily B. Jordan, Esq.

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DEPARTMENT OF HEALTH**

In the Matter of the Appeal of

INDEPENDENT BRONX CONSULTATION CENTER,
Appellant,

Provider #: [REDACTED]
Audit #: 06-1480

To review the determination of the Department to recover
\$200, 671.00 in Medicaid overpayments for the period
January 1, 2004 through December 31, 2005.

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 Independent Bronx Consultation Center (“Appellant”), 782 Pelham Parkway South, Bronx, 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 July 8, 2009 (Ex. 3). On or about September 9, 2009, David A. Berger, Esq. (“Appellant’s Counsel”), Allegaert Berger & Vogel LLP, 111 Broadway, 20th Floor New York, New York (“firm”) made a written request for a hearing (Ex. 4). 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. 5).

Upon mutual request of the parties, the hearing scheduled to commence on December 3, 2009 was adjourned to January 13, 2010, and then taken off the calendar in anticipation of settlement. On or about January 5, 2012, the OMIG requested that the matter be put back on the calendar. On or about March 1, 2012, Appellant's Counsel and his firm withdrew from their representation of Appellant (Ex. 6). On or about March 6, 2012, the OMIG sent written notice of a pre-hearing conference to the Appellant, in conformity with the requirements of 18 NYCRR 519.14 (Ex.7). On March 16, 2012, upon receiving a copy of the notice of a pre-hearing conference, Kimberly A. O'Brien, Esq., Administrative Law Judge issued a notice of hearing scheduling the hearing on April 24, 2012, at 10:00 am, at the Offices of the New York State Department of Health, 90 Church Street 4th Floor, New York, New York (Ex.13). The OMIG appeared on April 24, 2012 ready to proceed (Transcript pages 1-38 & OMIG Exhibits 1-13). 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 5, 2012
Albany, New York

Kimberly A. O'Brien, Administrative Law Judge
Bureau of Adjudication

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