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Mr. Elmer W. Smith, Regional Commissioner
Social and Rehabilitation Service, Region II
Department of Health, Education and Welfare
26 Federal Plaza
New York, New York 10007

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Dear Mr. Smith:

On April 17, 1975, we met with Messrs. William Toby and Stanley Allen of your staff to discuss Medicaid overbillings by the Sunset Park Family Health Center and the Neighborhood Health Services Program of Mid-Westside. This letter confirms the information we supplied at that meeting.

The Code of Federal Regulations, Title 45, Section 250.30(a)(1) requires that a State plan for medical assistance under Title XIX of the Social Security Act, include a description of the policy and the methods to be used in establishing payment rates for each type of care or service. The New York State Department of Social Services has the overall responsibility for the State Medicaid program. However, the New York State Plan assigns to the New York State Department of Health (DOH) the responsibility for studying and determining the fees for providers of medical care.

The DOH has implemented this responsibility by defining the standards and principles for computing the reimbursement rates, as set forth in Revised Part 86 of the Administrative Rules and Regulations of the Commissioner of Health. Section 86.11(b) of part 86 of these regulations, provides that reimbursement rates for emergency and clinic outpatient services will be computed based on the allowable costs for such services divided by the units of service. The DOH defines a unit of service as each time an outpatient enters a clinic and receives medical service.

Contrary to section 86.11(b), the 1974 and 1975 Medicaid rates for Sunset Park and Mid-Westside, as approved by DOH, were based on the clinics total adjusted operating costs divided by the number

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