



Office of the  
Medicaid Inspector  
General

ANDREW M. CUOMO  
Governor

DENNIS ROSEN  
Medicaid Inspector General

April 29, 2016

[REDACTED]  
The Shore Winds, LLC  
c/o Rohm Services  
740 East Avenue  
Rochester, New York 14607

Re: Medicaid Rate Audit #15-2433  
NPI Number: [REDACTED]  
Provider Number: [REDACTED]

Dear [REDACTED]

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of The Shore Winds LLC's (the "Facility") Medicaid rates for the rate period January 1, 2012 through December 31, 2014. In accordance with 18 NYCRR Section 517.6, this audit report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated October 16, 2015, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A). Consideration of your comments resulted in no change to the total Medicaid overpayment shown in the draft audit report. As previously stated in the draft audit report, the Medicare Part B and D offsets were not within the scope of the review and may be examined as part of a future audit. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$99,868. This overpayment is subject to Department of Health ("DOH") and Division of Budget ("DOB") final approval. While not anticipated, any difference between the calculated overpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below.

**OPTION #1:** Make full payment by check or money order within 20 days of the date of the final audit report. The check should be made payable to the New York State Department of Health and be sent with the attached Remittance Advice to:

[REDACTED]  
New York State Department of Health  
Medicaid Financial Management  
GNARESP Corning Tower, Room 2739  
File #15-2433  
Albany, New York 12237-0048

**OPTION #2:** Enter into a repayment agreement with the Office of the Medicaid Inspector General. If your repayment terms exceed 90 days from the date of the final audit report, recoveries of amounts due are subject to interest charges at the prime rate plus 2%. If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, the OMIG will impose a 50% withhold after 20 days until an agreement is established. OMIG acceptance of the repayment agreement is based on your repaying the Medicaid overpayment as agreed. The OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against any amount owed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days at the following:

Bureau of Collections Management  
New York State Office of the Medicaid Inspector General  
800 North Pearl Street  
Albany, New York 12204  
Phone #: [REDACTED]  
Fax #: [REDACTED]

You have the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. You may not request a hearing to raise issues related to rate setting or rate setting methodology. In addition, you may not raise any issue that was raised or could have been raised at a rate appeal with your rate setting agency. You may only request a hearing to challenge specific audit adjustments which you challenged in a response to the draft audit report.

If you wish to request a hearing, the request must be submitted in writing to:

General Counsel  
Office of Counsel  
New York State Office of the Medicaid Inspector General  
800 North Pearl Street  
Albany, New York 12204

Questions regarding the request for a hearing should be directed to the Office of Counsel at [REDACTED].

If a hearing is held, you may have a person represent you or you may represent yourself. If you choose to be represented by someone other than an attorney, you must supply a signed authorization permitting that person to represent you along with your hearing request. At the hearing, you may call witnesses and present documentary evidence on your behalf.

Should you have any questions, please contact me at [REDACTED]. Please refer to audit number 15-2433 in all correspondence.

Sincerely,

[REDACTED]

Bureau of Rate Audit  
Division of Medicaid Audit  
Office of the Medicaid Inspector General

[REDACTED]

**NEW YORK STATE  
OFFICE OF THE MEDICAID INSPECTOR GENERAL  
REMITTANCE ADVICE**

**NAME AND ADDRESS OF AUDITEE**

The Shore Winds LLC  
c/o Rohm Services  
740 East Avenue  
Rochester, New York 14607

NPI #: [REDACTED]  
PROVIDER #: [REDACTED]

AUDIT #15-2433

AMOUNT DUE: \$99,868

AUDIT  
TYPE

[ ] PROVIDER  
[ X ] RATE  
[ ] PART B  
[ ] OTHER:

**CHECKLIST**

1. To ensure proper credit, please enclose this form with your check.
2. Make checks payable to: *New York State Department of Health*
3. Record the Audit Number on your check.
4. Mail check to:

[REDACTED]  
New York State Department of Health  
Medicaid Financial Management  
GNARESP Corning Tower, Room 2739  
File #15-2433  
Albany, New York 12237-0048

5. If the provider number shown above is incorrect, please enter the correct number below.

[REDACTED]

**CORRECT PROVIDER NUMBER**

**THE SHORE WINDS, LLC - AUDIT #15-2433  
FACILITY DRAFT AUDIT REPORT COMMENTS AND OMIG RESPONSE**

All OMIG adjustments were accepted by the Facility except for those shown below. The following details the disposition of final report adjustments after consideration of the Facility's draft audit report response comments.

**EXHIBIT III COMMENTS**

**Adjustment #1 – Disallowance of Movable Equipment Depreciation**

**Facility Comment**

OMIG disallowed assets capitalized as moveable equipment. We object on the following basis:

- OMIG has adjusted assets purchased in years not open to audit per the regulations. OMIG has either not adjusted those assets during prior audits and/or failed to audit the cost period. These adjustments allow OMIG to make an end run around the audit regulations. Record retention regulations mirror the audit regulations therefore allowing OMIG to make audit adjustments outside the current audit period would render those record retention guidelines meaningless. Are facilities required to retain records for as long as an asset is being depreciated albeit 10, 20 or 30 years? We contend that the audit regulations require adherence to audit timeliness based on "cost" year and not "reimbursement" year.
- Disallowance of these assets, in effect, renders them non-reimbursable. The state incorrectly revised this facility's reimbursement of fixed asset reimbursement from return of equity to a residual reimbursement method which reimburses 50% of the last years return of equity. As it stands now, it will take more than 90 years to reimburse the facility's current historical cost which does not include future improvements or the assets reclassified by OMIG. OMIG has the ability to correct this gross inequity and fix the error made by rate-setting to insure this facility receives proper reimbursement for its allowable historical cost.

We request that OMIG revise the audit adjustment noted above to allow for appropriate reimbursement of the facility's historical cost.

**OMIG Response**

The OMIG's disallowances were to depreciation expense for the years under audit on assets that were, a) incorrectly classified as movable equipment, b) incorrectly capitalized operating expenses, or c) non-allowable in nature. These determinations were based solely on the Facility's asset descriptions, and did not involve an audit of those assets. Since the depreciation expense in question was subject to audit, the OMIG's disallowance was proper.

The OMIG does not have the authority to change the Bureau of Long Term Care Reimbursement's (BLTCR) residual reimbursement methodology used to promulgate the Facility's Medicaid rates. Concerns regarding rate methodology should be addressed directly to BLTCR.

**Disposition: The draft audit report disallowances remain the same.**

**THE SHORE WINDS, LLC - AUDIT #15-2433**  
**RATE PERIODS JANUARY 1, 2012 THROUGH DECEMBER 31, 2014**  
**SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT**

<u>RATE PERIOD</u>	<u>ISSUED PART B &amp; D NON-ELIGIBLE RATES*</u>	<u>FINAL PART B &amp; D NON-ELIGIBLE RATES</u>	<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
01/01/12 - 06/30/12	\$156.23	\$155.80	\$0.43	31,649	\$ 13,609
07/01/12 - 12/31/12	172.36	171.93	0.43	30,531	13,128
01/01/13 - 03/31/13	171.22	170.69	0.53	15,276	8,096
04/01/13 - 06/30/13	173.00	172.47	0.53	15,925	8,440
07/01/13 - 12/31/13	177.39	176.86	0.53	33,700	17,861
01/01/14 - 06/30/14	167.71	167.14	0.57	33,096	18,865
07/01/14 - 12/31/14	169.57	169.00	0.57	34,858	<u>19,869</u>
<b>TOTAL MEDICAID OVERPAYMENT</b>					<b><u>\$ 99,868</u></b>

\* Any differences between these rates and the rates listed in Exhibit II of this audit report represent rate changes made subsequent to OMIG's audit. These changes remain open to future audit by the OMIG. For the purpose of this Exhibit, the Medicare Part B and D rates are not shown. The rate decrease/(increase) for those rates is the same as shown for the Medicare Part B and D non-eligible rates above.

**THE SHORE WINDS, LLC - AUDIT #15-2433**  
**RATE PERIODS JANUARY 1, 2012 THROUGH DECEMBER 31, 2014**  
**SUMMARY OF MEDICAID RATES AUDITED**

The Facility's Medicaid utilization was approximately 75 percent for the period under audit and the Medicaid per diem rates audited are shown below. Any differences between these rates and the "Issued Rates" listed in Exhibit I of this audit report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

<b><u>RATE PERIOD</u></b>	<b><u>ISSUED MEDICARE PART B &amp; D NON-ELIGIBLE RATES *</u></b>
01/01/12 - 06/30/12	\$ 156.23
07/01/12 - 12/31/12	172.36
01/01/13 - 03/31/13	171.22
04/01/13 - 06/30/13	173.00
07/01/13 - 12/31/13	177.39
01/01/14 - 06/30/14	177.47
07/01/14 - 12/31/14	169.57

\* The Medicare Part B and D rates are not shown for the purpose of this Exhibit. The Medicare Part B and D offsets were not within the scope of this audit and may be examined as part of a future audit.

**THE SHORE WINDS, LLC - AUDIT #15-2433**  
**RATE PERIODS JANUARY 1, 2012 THROUGH DECEMBER 31, 2014**  
**PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

	DESCRIPTION	COST CTR.	RATE PERIODS		
			2012	2013	2014
Property Expense Allowed per HE-12B			\$ 418,680	\$ 410,978	\$ 432,903
Less Disallowances/(Allowances):					
<b>1. DISALLOWANCE OF MOVABLE EQUIPMENT DEPRECIATION</b>					
a) Reported movable equipment depreciation incorrectly included depreciation on non-movable assets. Non-movable assets are a component of real property costs. This Facility was reimbursed for its real property costs through residual reimbursement amounts that were allowed in the Facility's property rates. Accordingly, these assets were reclassified to non-movable equipment, and the depreciation on these assets was disallowed from movable equipment depreciation expense. Since the residual reimbursement was a fixed amount based on amounts reimbursed in a prior year, no audit adjustment was made to the residual reimbursement. Regulations: 10 NYCRR Sections 86-2.21 & 86-2.22, BLTCR Rate Methodology, RHCF Accounting and Reporting Manual	Mov. Eq. Dep.	002	12,655	20,235	19,757
b) The Facility incorrectly capitalized and depreciated certain costs which were operating in nature. These included certain types of expenditures that were reported as operating expenses in a prior base year. Therefore, the depreciation expenses associated with these costs were disallowed. Since operating expense reimbursement was based on statewide pricing amounts, no audit adjustment was made to the Facility's operating expense. Regulations: 10 NYCRR Sections 86-2.10 & 86-2.22, BLTCR Rate Methodology, RHCF Accounting and Reporting Manual	Mov. Eq. Dep.	002	2,868	3,870	4,278
c) The Facility capitalized certain costs that were excludable from the rates (e.g. television and cable costs), or not allowable because of the nature of the expenditures. Therefore, the depreciation expenses on these costs were disallowed. Regulations: 10 NYCRR Sections 86-2.17(a)&(d), 86-2.22, PRM-1 Sections 2102.3 & 2106, BLTCR Rate Methodology	Mov. Eq. Dep.	002	3,839	3,539	3,523
<b>2. DISALLOWANCE OF MOVABLE EQUIPMENT RENTAL EXPENSE</b>					
Reported movable equipment rental expenses included payments for operating expenditures (such as record storage fees, software annual licensing fees, etc.). Since these costs were operating in nature and not movable equipment rental, these rental expenses were disallowed. Regulations: 10 NYCRR Sections 86.10 & 86-2.22, RHCF Accounting and Reporting Manual	Rent B	005	14,389	13,049	15,024
<b>Total Disallowances/(Allowances)</b>			<u>\$ 33,751</u>	<u>\$ 40,693</u>	<u>\$ 42,582</u>
<b>TOTAL AUDITED PROPERTY EXPENSE</b>			<u>\$ 384,929</u>	<u>\$ 370,285</u>	<u>\$ 390,321</u>