



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

August 12, 2014

[REDACTED]
Schervier Pavilion
22 Van Duzer Place
Warwick, New York 10990

Re: Medicaid Rate Audit #10-8327
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 Schervier Pavilion's (the "Facility") Medicaid rates for the rate period January 1, 2002 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft audit report.

Since you did not respond to our draft audit report dated April 9, 2014, the findings in the final audit report remain identical to 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 \$931,852. 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.

The overpayment does not reflect the impact on rates subsequent to December 31, 2008 that utilized the January 1, 1996 through December 31, 1996 base period for operating expense. Any overpayment resulting from operating expense disallowances in the January 1, 1996 through December 31, 1996 base period report for rates subsequent to December 31, 2008 will be addressed in the future.

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 #10-8327
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

[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 [REDACTED] or through email at [REDACTED]. Please refer to audit number 10-8327 in all correspondence.

Sincerely,

[REDACTED]
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachments:

- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Operating Expense Disallowances/(Allowances) – Appeal #31961
- EXHIBIT IV - Property Expense Disallowances/(Allowances) – Appeal #31961
- EXHIBIT V - Property Expense Disallowances/(Allowances)
- EXHIBIT VI - Per Diem Disallowances

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME & ADDRESS OF AUDITEE:

**SCHERVIER PAVILLION
22 VAN DUZER PLACE
WARWICK, NEW YORK 10990**

AMOUNT DUE: \$931,852

NPI #: [REDACTED]

PROVIDER #: [REDACTED]

AUDIT #10-8327

**AUDIT
TYPE**

PROVIDER
 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 #10-8327
Albany, New York 12237-0048**

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

[REDACTED]

CORRECT PROVIDER NUMBER

SCHERVIER PAVILION - AUDIT #10-8327
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED PART B & D NON-ELIGIBLE RATES*</u>	<u>FINAL PART B & D NON-ELIGIBLE RATES</u>	<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
01/01/02 - 02/28/02	\$299.35	\$281.70	\$17.65	3,940	\$ 69,541
03/01/02 - 03/31/02	294.16	276.51	17.65	2,131	37,612
04/01/02 - 05/31/02	297.40	279.75	17.65	4,245	74,924
06/01/02 - 08/31/02	300.32	282.66	17.66	6,466	114,190
09/01/02 - 11/30/02	296.50	278.84	17.66	6,620	116,909
12/01/02 - 12/31/02	297.23	279.57	17.66	2,286	40,371
01/01/03 - 02/28/03	183.07	180.04	3.03	4,497	13,626
03/01/03 - 05/31/03	182.50	179.47	3.03	7,046	21,349
06/01/03 - 08/31/03	182.36	179.33	3.03	6,874	20,828
09/01/03 - 11/30/03	183.54	180.51	3.03	6,550	19,847
12/01/03 - 12/31/03	185.21	182.18	3.03	2,202	6,672
01/01/04 - 02/29/04	190.71	187.58	3.13	4,092	12,808
03/01/04 - 03/31/04	187.75	184.63	3.12	2,148	6,702
04/01/04 - 05/31/04	187.75	184.63	3.12	4,388	13,691
06/01/04 - 08/31/04	187.34	184.21	3.13	6,609	20,686
09/01/04 - 11/30/04	177.97	174.84	3.13	6,400	20,032
12/01/04 - 12/31/04	186.36	183.24	3.12	2,123	6,624
01/01/05 - 02/28/05	192.41	189.19	3.22	3,586	11,547
03/01/05 - 05/31/05	192.77	189.55	3.22	5,218	16,802
06/01/05 - 06/30/05	192.18	188.96	3.22	1,690	5,442
07/01/05 - 08/31/05	192.18	188.96	3.22	3,914	12,603
09/01/05 - 11/30/05	180.29	177.07	3.22	6,422	20,679
12/01/05 - 12/31/05	185.07	181.84	3.23	2,155	6,961
01/01/06 - 02/28/06	191.43	188.64	2.79	4,108	11,461
03/01/06 - 03/31/06	194.55	191.77	2.78	2,077	5,774
04/01/06 - 05/31/06	194.16	191.38	2.78	3,926	10,914
06/01/06 - 08/31/06	200.20	197.42	2.78	6,064	16,858
09/01/06 - 11/30/06	198.21	195.43	2.78	6,359	17,678
12/01/06 - 12/31/06	202.62	199.84	2.78	2,215	6,158
01/01/07 - 03/31/07	214.72	210.66	4.06	6,500	26,390
04/01/07 - 06/30/07	213.63	209.59	4.04	6,323	25,545
07/01/07 - 12/31/07	211.31	207.27	4.04	12,415	50,157
01/01/08 - 03/31/08	212.83	210.01	2.82	6,083	17,154
04/01/08 - 06/30/08	207.78	204.99	2.79	5,963	16,637
07/01/08 - 12/31/08	213.54	210.75	2.79	13,147	36,680
TOTAL MEDICAID OVERPAYMENT					\$ 931,852

* 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.

SCHERVIER PAVILION - AUDIT #10-8327
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 58 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.

<u>RATE PERIOD</u>	<u>ISSUED MEDICARE PART B & D NON-ELIGIBLE RATES *</u>
01/01/02 - 02/28/02	\$299.91
03/01/02 - 03/31/02	294.74
04/01/02 - 05/31/02	297.98
06/01/02 - 08/31/02	300.88
09/01/02 - 11/30/02	297.08
12/01/02 - 12/31/02	297.78
01/01/03 - 02/28/03	183.67
03/01/03 - 05/31/03	183.12
06/01/03 - 08/31/03	182.98
09/01/03 - 11/30/03	184.14
12/01/03 - 12/31/03	185.81
01/01/04 - 02/29/04	191.30
03/01/04 - 03/31/04	188.34
04/01/04 - 05/31/04	188.34
06/01/04 - 08/31/04	187.95
09/01/04 - 11/30/04	178.56
12/01/04 - 12/31/04	186.97
01/01/05 - 02/28/05	193.02
03/01/05 - 05/31/05	193.40
06/01/05 - 06/30/05	192.81
07/01/05 - 08/31/05	192.81
09/01/05 - 11/30/05	180.91
12/01/05 - 12/31/05	185.67
01/01/06 - 02/28/06	189.77
03/01/06 - 03/31/06	192.90
04/01/06 - 05/31/06	192.50
06/01/06 - 08/31/06	198.54
09/01/06 - 11/30/06	196.58
12/01/06 - 12/31/06	200.98
01/01/07 - 03/31/07	212.40
04/01/07 - 06/30/07	211.30
07/01/07 - 12/31/07	208.98
01/01/08 - 03/31/08	212.49
04/01/08 - 06/30/08	207.45
07/01/08 - 12/31/08	213.21

* 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.

SCHERVIER PAVILION - AUDIT #10-8327
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES) - APPEAL #31961

	<u>DESCRIPTION</u>	<u>COST</u> <u>CTR.</u>	<u>DISALLOWED</u> <u>(ALLOWED)</u>	<u>TRACE-</u> <u>BACK %</u>	<u>OPERATING EXPENSE COMPONENT</u>		
					<u>DIRECT</u>	<u>INDIRECT</u>	<u>NON-</u> <u>COMP.</u>
Operating Expense Allowed per HE-12B					<u>\$ 3,365,049</u>	<u>\$ 1,955,749</u>	<u>\$ 343,110</u>
Less Disallowances/(Allowances):							
APPEAL #31961 ADJUSTMENTS							
a) The Facility's appeal reclassified expenses to the Fiscal Services cost center. The audit disclosed that these expenses included letter of credit fees and financing fees. These costs should be reimbursed within the capital portion of the rate. Consequently, the expenses were disallowed as an operating expenditure. Regulations: 10 NYCRR Sections 86-2.17(a), 86-2.10	Fiscal Services	004	\$ 176,974	75.29%		133,244	
b) Providers receiving payment on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. The Facility's appeal reclassified expenses from the Administrative Services cost center to the Medical Director's Office cost center. The Facility did not provide adequate documentation to substantiate the reported expenses. Consequently, the expenses were adjusted. Regulations: 10 NYCRR Section 86-2.17(a); PRM-1 Sections 2300 and 2304	Medical Director	017	12,850	100.00%			12,850
	Admin. Services	005	(12,850)	75.28%		(9,673)	
Total Disallowances/(Allowances)					<u>\$ -</u>	<u>\$ 123,571</u>	<u>\$ 12,850</u>
AUDITED OPERATING EXPENSE BY COMPONENT					<u><u>\$ 3,365,049</u></u>	<u><u>\$ 1,832,178</u></u>	<u><u>\$ 330,260</u></u>

SCHERVIER PAVILION - AUDIT #10-8327
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES) - APPEAL #31961

<u>DESCRIPTION</u>	<u>COST</u>	<u>DISALLOWED</u>	<u>TRACE-</u>	<u>1996</u>
	<u>CTR.</u>	<u>(ALLOWED)</u>	<u>BACK %</u>	
Property Expense Allowed per 1996 HE-12B Schedule VI				<u>\$ 867,765</u>
APPEAL #31961 ADJUSTMENT				
Capital costs disallowed as an operating expenditure within Exhibit III are allowed within the capital component of the rate for the rate year 1996.	Fiscal Services	004	\$ (176,974) 75.29%	(133,244)
Total Disallowances/(Allowances)				<u>\$ (133,244)</u>
AUDITED PROPERTY EXPENSE				<u><u>\$ 1,001,009</u></u>

SCHERVIER PAVILION - AUDIT #10-8327
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	CTR.	COST DISALLOWED (ALLOWED)	TRACE- BACK %	2006	2007	2008
Property Expense Allowed per HE-12B					\$ 945,690	\$ 980,809	\$ 837,759
Less Disallowances/(Allowances):							
1. PROPERTY INSURANCE DISALLOWANCES							
Providers receiving payment on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility did not provide adequate documentation to substantiate reported property insurance expense. Consequently, these expenses were disallowed.							
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 and 2304							
2. MOVEABLE EQUIPMENT RENTALS DISALLOWANCES							
Providers receiving payment on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility did not provide adequate documentation to substantiate reported moveable equipment rentals expense. Consequently, these expenses were disallowed.							
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2300 and 2304							
	Prop. Ins.	005	22,835	73.58%		16,802	
	Rent B	010	343	45.24%	155		
	Rent C	051	245	100.00%	245		
	Rent D	005	5,279	75.28%	3,974		
	Rent E	004	477	75.29%	359		
	Rent F	013	195	100.00%	195		
	Rent B	004	1,245	73.58%		916	
	Rent C	005	6,977	73.58%		5,134	
	Rent D	006	365	69.38%		253	
	Rent E	010	365	69.08%		252	
	Rent F	051	1,534	100.00%		1,534	
	Rent B	004	1,827	75.39%			1,377
	Rent C	005	5,496	75.39%			4,143
	Rent D	006	459	69.19%			318
	Rent E	010	459	69.06%			317
	Rent F	051	1,506	100.00%			1,506
3. MORTGAGE INTEREST AND INSURANCE ALLOWANCE							
Providers receiving payment on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility did not receive adequate reimbursement for mortgage insurance in the 2008 rate. That resulted in an allowance for that year.							
Regulations: 10 NYCRR Sections 86-2.17(a), 86-2.20(a), PRM-1 Sections 2300 and 2304							
	Other	051	(37,438)	100.00%			(37,438)
Property Expense Disallowances/(Allowances)					\$ 4,928	\$ 24,891	\$ (29,777)
TOTAL AUDITED PROPERTY EXPENSE					\$ 940,762	\$ 955,918	\$ 867,536

SCHERVIER PAVILION - AUDIT #10-8327
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2008
PER DIEM DISALLOWANCES
DISALLOWANCE IN OBRA AND GLOVES PER DIEM ADD-ONS

The Facility received OBRA and Gloves per diem add-ons in its 1/1/2002 - 12/31/2008 Medicaid rates. The OBRA per diem was added to recognize various Federally mandated direct expenses for facilities with operating base periods prior to 4/1/91. The Gloves per diem was added to recognize a Federal mandate for glove supplies for facilities with operating base periods prior to 4/1/94. This facility's operating base period covered 1/1/96 through 12/31/96, so the Federally mandated expenditures were included in its base period direct operating costs. Therefore, the per diem add-ons for this Facility should only have replaced amounts that were cut by direct cost ceiling limitations in the applicable rate calculations. Since the Facility's direct costs were not held to a ceiling, the per diem add-ons were not necessary. Consequently, the OBRA and Gloves per diem add-ons were eliminated.

Regulations: 10 NYCRR Sections 86-2.10(r), 86-2.10(u), and 86-2.17(a), Bureau of Long Term Care Reimbursement Rate Setting Policy

	RATE PERIODS			
	<u>2006</u>	<u>2007</u>	<u>1/1/08- 3/31/08</u>	<u>4/1/08- 12/31/08</u>
OBRA Per Diem Adjustment	\$ 0.57	\$ 0.59	\$ 0.60	\$ 0.60
Gloves Per Diem Adjustment	0.27	0.28	0.29	0.28
Disallowance to Per Diem Add-Ons	<u>\$ 0.84</u>	<u>\$ 0.87</u>	<u>\$ 0.89</u>	<u>\$ 0.88</u>