



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

August 25, 2016

██████████
Niagara Rehabilitation and Nursing Center
822 Cedar Avenue
Niagara Falls, New York 14301

Re: MDS Final Audit Report
Audit #: 13-2424
Provider ID#: ██████████

Dear ██████████

This is the final audit report of findings with regard to the Office of the Medicaid Inspector General's (OMIG) Minimum Data Set (MDS) audit of Niagara Rehabilitation and Nursing Center for the census period ending January 25, 2012. In accordance with 18 NYCRR §517.6, this final audit report represents the OMIG's final determination on issues found during OMIG's review.

We received your response to our draft audit report dated October 19, 2015. Your comments have been considered (see Attachment D) and the findings in the final audit report remain identical to the draft audit report.

The Medicaid overpayment of \$44,044.00 was calculated using the number of Medicaid days paid for the rate period July 1, 2012 through December 31, 2012 and the change in the direct component of your Medicaid rate as calculated by the Department of Health's Bureau of Long Term Care Reimbursement (BLTCR). The calculation of this overpayment is detailed in Attachment A. BLTCR will adjust your Medicaid rates for the relevant rate period to reflect the change in the direct component. The findings explanation, regulatory references, and applicable adjustment can be found in the attachments following Attachment A.

The Provider has the right to challenge this action and determination by requesting an administrative hearing within 60 days of the date of this notice. If the Provider wishes 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, NY 12204

Questions regarding the request for a hearing should be directed to Office of Counsel, at ██████████.

[REDACTED]

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In accordance with 18 NYCRR 519.18(a), "The issues and documentation considered at the hearing are limited to issues directly relating to the final determination. An appellant may not raise issues regarding the methodology used to determine any rate of payment or fee, nor raise any new matter not considered by the department upon submission of objections to a draft audit or notice of proposed agency action."

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 along with your hearing request a signed authorization permitting that person to represent you at the hearing; you may call witnesses and present documentary evidence on your behalf.

For a full listing of hearing rights please see 18 NYCRR Part 519.

Should you have any questions regarding the above, please contact [REDACTED]
[REDACTED]

[REDACTED]

Division of Medicaid Audit
Office of the Medicaid Inspector General

[REDACTED]

OFFICE OF THE MEDICAID INSPECTOR GENERAL
NIAGARA REHABILITATION AND NURSING CENTER
AUDIT # 13-2424
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAYS	IMPACT
Part B Eligible/Part B D Eligible	\$1.80	22,022	\$39,639.60
Non-Medicare/Part D Eligible	\$1.82	2,420	\$4,404.40
Total			<u>\$44,044.00</u>

*Rounded to nearest 1/100th New York State Department of Health Bureau of Managed Long Term
Care Rate Setting / FFS

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 NIAGARA REHABILITATION AND NURSING CENTER
 AUDIT #13-2424
 FINDINGS BY SAMPLE NUMBER

Sample #					DETAILED FINDINGS									
	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DISALLOW BEHAVIOR	DISALLOW BED MOBILITY SELF PERFORMANCE	DISALLOW BED MOBILITY SUPPORT PROVIDED	DISALLOW TRANSFER SELF PERFORMANCE	DISALLOW TRANSFER SUPPORT PROVIDED	DISALLOW EATING SELF PERFORMANCE	DISALLOW TOILET USE SELF PERFORMANCE	DISALLOW TOILET USE SUPPORT PROVIDED	DISALLOW OCCUPATION THERAPY	DISALLOW PHYSICAL THERAPY
40	RVC	PE1	1.53	0.79					1			1	1	
41	SSB	SSB	1.06	1.06										
42	PD1	PD1	0.72	0.72										
43	RMC	CB1	1.27	0.86									1	
TOTALS					4	6	4	8	3	5	6	5	3	4

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
 NIAGARA REHABILITATION AND NURSING CENTER
 AUDIT #13-2424
 MDS DETAILED FINDINGS**

MDS FINDINGS**SAMPLE SELECTION****Behavior**

If the provider is unable to produce the supporting documentation for the patient, the service will be disallowed and the Case Mix will be adjusted. A repayment schedule will be developed.

Documentation must indicate behavioral symptoms in the last seven days, including those that are potentially harmful to the resident. MDS 3.0 manual guidelines will be followed when examining the medical records.

*42 CFR §483.20 (b) (xvii)
 MDS 3.0 Manual E0100-E1100*

In 1 instance, documentation did not support the frequency of other behavioral symptoms claimed.	37
In 1 instance, documentation did not support the frequency of verbally abusive behavior.	15
In 3 instances, documentation did not support the frequency of resistance to care.	9, 15, 22

Functional Status-ADL Self-Performance and Support

If the provider is unable to produce the supporting documentation for the patient, the service will be disallowed and the Case Mix will be adjusted. A repayment schedule will be developed.

Documentation must indicate an assessment was done to evaluate the need for assistance with activities of daily living (ADL's), altered gait and balance, and decreased range of motion (ROM). MDS 3.0 manual guidelines will be followed when examining the medical records.

*42 CFR §483.20 (b) (xvii)
 MDS Manual 3.0 G0100-0900*

Bed Mobility Self-Performance

In 2 instances, documentation did not support resident required total assist every time.	16, 24
In 4 instances, documentation did not support resident required non weight bearing assist three or more times.	12, 19, 23, 35

Bed Mobility Support Provided

In 1 instance, documentation did not support resident was a 2+ person physical help at least once.	5
In 3 instances, documentation did not support resident was a one person physical help at least once.	12, 19, 35

Transfer Self-Performance

In 5 instances, documentation did not support resident required total assist every time.	6, 16, 17, 24, 28
In 3 instances, documentation did not support resident required non weight bearing assist three or more times.	19, 35, 38

Transport Support Provided

In 3 instances, documentation did not support resident was a one (1) person physical help at least once.	19, 35, 38
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Eating Self-Performance

In 1 instance, documentation did not support resident required total assist every time.	40
In 4 instances, documentation did not support resident required supervision one or more times.	17, 18, 19, 38

Toilet Use Self-Performance

In 1 instance, documentation did not support resident required total assist every time.	4
In 2 instances, documentation did not support resident required weight bearing assist three or more times.	12, 38

In 2 instances, documentation did not support resident required non weight bearing assist three or more times. 19, 35

In 1 instance, documentation did not support resident required supervision one or more times. 15

Toilet Use Support Provided

In 3 instances, documentation did not support resident was a 2+ person physical help at least once. 10, 24, 38

In 1 instances, documentation did not support resident was a one person physical help at least once. 19

In 1 instance, documentation did not support resident was set up at least once. 15

Skilled Therapy

If the provider is unable to produce the supporting documentation for the patient, the service will be disallowed and the Case Mix will be adjusted. A repayment schedule will be developed.

The qualified therapist, in conjunction with the physician and nursing staff, is responsible for determining the necessity for and the frequency and duration of the therapy provided to residents. Rehabilitation (i.e., via Speech-Language Services, and Occupational and Physical Therapies) and respiratory, psychological, and recreational therapy helps the residents to attain or maintain their highest level of well-being and improve their quality of life. MDS 3.0 manual guidelines will be followed when reviewing the documentation provided by the facility.

*42 CFR §483.20 (b) (xvii)
MDS 3.0 Manual O0400-0500*

Occupational Therapy

In 3 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 31, 32, 40

Physical Therapy

In 1 instance, documentation reflected incorrect individual/concurrent/group minutes. 27

In 1 instance, documentation reflected incorrect days. 27

In 3 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 28, 40, 43

RUGS-II Classifications Overturned

In 12 instances, the RUG classifications were overturned. 5, 10, 12, 19, 22, 24, 28, 31, 32, 37, 40, 43

10 NYCRR §86-2.10, Volume A-2

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
NIAGARA REHABILITATION AND NURSING CENTER
AUDIT #13-2424**

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

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Sample #10

Disallowance G 0100I Toilet Use Support Provided

Based on information and documentation provided by the facility, the following disallowance was not reversed and will be included in the Final Report:

Disallowance G 0100I Toilet Use Support Provided

Facility Comment:

The facility stated CNA sheets indicate Extensive 2 assist with Transfers, Ext assist of 1 for toileting, PT progress note indicates Extensive 2 with bed mobility daily.

Documentation submitted and reviewed:

- A sheet with no title (outside the ARD 1/23/12)
- PT progress note (outside the ARD 1/23/12)
- A sheet with no title
- PT progress notes
- PT consultation form with no date
- An ADL sheet for Jan. 2012
- A signature sheet for Jan. 2012
- An ADL sheet for Jan. 2012
- A signature sheet for Jan. 2012
- Nursing notes 01/09/12-03/08/12
- Mood and behavior record
- Nursing notes 11/04/11-01/04/12

OMIG Response:

The MDS Assessment Reference Date (ARD) is 01/21/12.

The 7-day look back period is 01/15/12 – 01/21/12.

The facility provided us with daily and shift-by-shift documentation of the care provided by the certified nursing assistant. The sheet was titled Activity of Daily Living (ADL) Monitoring. There was an ADL Support Provided Code on the sheet which indicated a 2 one person physical assist, if the resident is assisted by one person. The documentation during the ARD supported a one person for support provided for toilet use.

ASSESSMENT

The ADL Self-Performance documentation does not support the MDS Manual 3.0 coding criteria as follows:

- Documentation for ADL Self-Performance should record the level of assistance actually provided to the resident, not the type and level of assistance he or she should receive according to the written plan of care. The level of assistance that is actually provided might differ from what is indicated in the plan.

Disposition: The draft report finding is unchanged and will be included in the final report.

Sample #22

Disallowance E 0800 Resists Care

Based on information and documentation provided by the facility, the following disallowance was not reversed and will be included in the Final Report:

Disallowance E 0800 Resists Care

Facility Comment:

The facility stated behavior sheets indicate daily behavior issues; 29 occurrences noted on the behavior sheet during look back period.

Documentation submitted and reviewed:

- Mood and Behavior form for November 2011
- Nursing notes 11/04/11-01/04/12

OMIG Response:

The MDS Assessment Reference Date (ARD) is 11/16/11.

The 7-day look back period is 11/10/11 – 11/16/11

The mood and behavior form for November 2011 has blanks, and there are several 'zeroes' marked in the spaces. The areas captured are 'barricading his door,' 'sitting on the floor,' and 'being non-compliant with his diet.' The social worker includes a note on 11/16/11 that the resident refused an MD appointment and is non-compliant with his diet 4-6 days, but not daily. There was no documentation to support this. MDS claims rejection of care. Documentation during the 7-day look back period indicates resident refused an MD appointment and was non-compliant with his diet. This is a resident preference.

ASSESSMENT

The ADL Self-Performance documentation does not support the MDS Manual 3.0 coding criteria as follows:

- The intent of this item is to identify potential behavioral problems, not situations in which care has been rejected based on a choice that is consistent with the resident's preferences or goals for health and well-being, or a choice made on behalf of the resident by a family member or other proxy decision maker.

Disposition: The draft report finding is unchanged and will be included in the final report.