



Office of the  
Medicaid Inspector  
General

ANDREW M. CUOMO  
Governor

DENNIS ROSEN  
Medicaid Inspector General

August 25, 2016

[REDACTED]  
The Hurlbut  
1177 East Henrietta Road  
Rochester, New York 14623

Re: MDS Final Audit Report  
Audit #: 13-2428  
Provider ID#: [REDACTED]

Dear [REDACTED]

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 The Hurlbut 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 29, 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 \$59,232.86 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].

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

Division of Medicaid Audit  
Office of the Medicaid Inspector General

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
THE HURLBUT  
AUDIT # 13-2428  
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAYS	IMPACT
Part B Eligible/Part B D Eligible	\$2.78	20,476	\$56,923.28
Non-Medicare/Part D Eligible	\$2.82	819	\$2,309.58
Total			<u>\$59,232.86</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  
 THE HURLBUT  
 AUDIT #13-2428  
 FINDINGS BY SAMPLE NUMBER

Sample #	[REDACTED]	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS					
						DISALLOW BED MOBILITY SELF PERFORMANCE	DISALLOW TRANSFER SELF PERFORMANCE	DISALLOW TOILET USE SELF PERFORMANCE	DISALLOW SPECIAL TREATMENTS, PROCEDURES	DISALLOW OCCUPATION THERAPY	DISALLOW PHYSICAL THERAPY
1	[REDACTED]	PA1	PA1	0.46	0.46						
2	[REDACTED]	RMB	RMB	1.22	1.22						
3	[REDACTED]	RMA	RMA	1.17	1.17						
4	[REDACTED]	IB1	IB1	0.78	0.78						
5	[REDACTED]	IB1	IB1	0.78	0.78						
6	[REDACTED]	PA1	PA1	0.46	0.46						
7	[REDACTED]	CC1	CC1	0.98	0.98						
8	[REDACTED]	RMC	RMC	1.27	1.27						
9	[REDACTED]	RHB	RHB	1.27	1.27						
10	[REDACTED]	IB1	IB1	0.78	0.78						
11	[REDACTED]	RMC	RMC	1.27	1.27						
12	[REDACTED]	CB2	CA2	0.91	0.84	1					
13	[REDACTED]	PE1	PE1	0.79	0.79						
14	[REDACTED]	PB1	PB1	0.58	0.58						
15	[REDACTED]	RMC	RMC	1.27	1.27	1					
16	[REDACTED]	CB1	CB1	0.86	0.86			1			
17	[REDACTED]	RMA	RMA	1.17	1.17						
18	[REDACTED]	RMA	RMA	1.17	1.17						
19	[REDACTED]	RMA	RMA	1.17	1.17						

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 THE HURLBUT  
 AUDIT #13-2428  
 FINDINGS BY SAMPLE NUMBER

Sample #	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS					
					DISALLOW BED MOBILITY SELF PERFORMANCE	DISALLOW TRANSFER SELF PERFORMANCE	DISALLOW TOILET USE SELF PERFORMANCE	DISALLOW SPECIAL TREATMENTS, PROCEDURES	DISALLOW OCCUPATION THERAPY	DISALLOW PHYSICAL THERAPY
20	RMC	PD1	1.27	0.72					1	
21	RMA	CA1	1.17	0.77					1	1
22	CB1	CB1	0.86	0.86						
23	CA1	PC1	0.77	0.66				1		
24	RMC	RMC	1.27	1.27						
25	IA1	IA1	0.61	0.61						
26	IA1	IA1	0.61	0.61						
27	SSB	SSB	1.06	1.06						
28	RMA	PA1	1.17	0.46						1
29	RHC	CB1	1.40	0.86					1	1
30	PE1	PE1	0.79	0.79	1	1	1			
31	PA1	PA1	0.46	0.46						
32	RMA	CA1	1.17	0.77					1	
33	PA1	PA1	0.46	0.46						
34	RVC	RVC	1.53	1.53						
35	CC1	CC1	0.98	0.98						
TOTALS					1	3	1	2	4	3

**OFFICE OF THE MEDICAID INSPECTOR GENERAL  
THE HURLBUT  
AUDIT #13-2428  
MDS DETAILED FINDINGS**

**MDS FINDINGS**

**SAMPLE SELECTION**

**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 1 instance, documentation did not support resident required total assist every time. 30

**Transfer Self-Performance**

In 2 instances, documentation did not support resident required total assist every time. 15, 30

In 1 instance, documentation did not support resident required non weight bearing assist three or more times. 12

**Toilet Use Self-Performance**

In 1 instance, documentation did not support resident required total assist every time. 30

**Special Treatments, Procedures, and Programs**

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 intent of the items in this section is to identify any special treatments, procedures, and programs that the resident received during the specific time periods. MDS 3.0 manual guidelines will be followed when examining the medical records.

*42 CFR §483.20 (b) (xv)*  
*MDS 3.0 Manual O0100-0300, O0600-0700*

In 2 instances, documentation did not support the number of days with MD exams during the look back period. 16, 23

In 1 instance, documentation did not support the number of days with MD orders during the look back period. 23

### **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 4 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 20, 21, 29, 32

### **Physical Therapy**

In 3 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 21, 28, 29

**RUGS-II Classifications Overturned**

In 7 instances, the RUG classifications were overturned. 12, 20, 21, 23, 28, 29, 32

*10 NYCRR §86-2.10, Volume A-2*

**OFFICE OF THE MEDICAID INSPECTOR GENERAL  
THE HURLBUT NURSING & REHABILITATION CENTER  
AUDIT #13-2428  
MDS BRIDGE MEMO**

Sample #	Finding	Provider Response	Accepted/Denied	Explanation
#32	Item # O0400B Occupational Therapy	<ul style="list-style-type: none"> <li>• Nursing Referral to Occupational Therapy dated 11/16/11</li> <li>• Rehabilitation Note dated 11/17/11</li> <li>• Rehabilitation Note dated 12/1/11</li> <li>• Rehabilitation Note dated 12/15/11</li> <li>• Resident Activity Report 12/09/11 thru 12/15/11</li> </ul>	Denied	<p>The Facility documentation provided did not have interdisciplinary documentation relevant to the ARD from the physician and licensed nursing staff to support the medical need for skilled Occupational Therapy services.</p> <p>See MDS Manual - section O.</p>
#20	Item # O0400B Occupational Therapy	<ul style="list-style-type: none"> <li>• Rehabilitation Note Eval. dated 10/28/11</li> <li>• O.T. Assessment dated 10/28/11</li> <li>• Rehabilitation Note dated 11/15/11 and 11/28/11</li> </ul>	Denied	<p>Documentation does not support the MDS Manual's coding instructions for Occupational Therapy.</p> <p>See MDS Manual - section O.</p>

#21	Item # O0400B Occupational Therapy	<ul style="list-style-type: none"> <li>• Occupational Therapy Rehabilitation Note Eval.</li> <li>• O.T. Assessment dated 08/29/11</li> <li>• Rehabilitation Note dated 09/06/11, 09/12/11, 9/26/11, 10/10/11, 10/24/11, 11/01/11</li> </ul>	Denied	Documentation does not support the MDS Manual's coding instructions for Occupational Therapy.  See MDS Manual - section O.
	Item # O0400C Physical Therapy	<ul style="list-style-type: none"> <li>• Rehabilitation Note Eval dated 8/29/11</li> <li>• Physical Therapy Attachment Evaluation</li> <li>• Rehabilitation Note dated 09/2/11, 09/12/11, 09/26/11, 10/10/11, 10/24/11, 10/31/11, 11/08/11</li> </ul>	Denied	Documentation does not support the MDS Manual's coding instructions for Physical Therapy.  See MDS Manual - section O.
#28	Item # O0400C Physical Therapy	The facility did not submit documentation for OMIG review.	Denied	Documentation does not support the MDS Manual's coding instructions for Physical Therapy.  See MDS Manual - section O.

#29	Item # O0400B Occupational Therapy	<ul style="list-style-type: none"> <li>• Occupational Therapy Rehabilitation Note Eval. dated 11/11/11</li> <li>• O.T. ADL Attachment dated 11/11/11</li> <li>• Rehabilitation Note dated 11/13/11 and 12/07/11</li> </ul>	Denied	<p>Documentation does not support the MDS Manual's coding instructions for Occupational Therapy.</p> <p>See MDS Manual - section O.</p>
	Item # O0400C Physical Therapy	<ul style="list-style-type: none"> <li>• Rehabilitation Note Eval dated 11/15/11</li> <li>• Physical Therapy Attachment Evaluation</li> <li>• Rehabilitation Note dated 11/25/11</li> <li>• Rehabilitation Note discharge dated 12/07/11</li> </ul>	Denied	<p>Documentation does not support the MDS Manual's coding instructions for Physical Therapy.</p> <p>See MDS Manual - section O.</p>