



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

August 31, 2016

██████████
Windsor Park Nursing Home
212-40 Hillside Avenue
Queens Village, New York 11427

Re: MDS Final Audit Report
Audit #: 13-4834
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 Windsor Park Nursing Home for the census period ending July 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 May 6, 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 \$66,621.31 was calculated using the number of Medicaid days paid for the rate period January 1, 2013 through June 30, 2013 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 ██████████.

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
WINDSOR PARK NURSING HOME
AUDIT 13-4834
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAY	IMPACT
Part B Eligible/Part B D Eligible	\$6.39	9,980	\$63,772.20
Non-Medicare/Part D Eligible	\$6.49	439	\$2,849.11
Total			<u>\$66,621.31</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
WINDSOR PARK NURSING HOME
AUDIT #13-4834
FINDINGS BY SAMPLE NUMBER

DETAILED FINDINGS

Sample #	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	
1	RUA	RUA	1.37	1.37	
2	RMA	IA1	1.17	0.61	1
3	CC1	CC1	0.98	0.98	
4	RMB	IB1	1.22	0.78	1
5	RMA	RMA	1.17	1.17	
6	SSC	SSC	1.12	1.12	
7	RMB	RMB	1.22	1.22	
8	CC1	CC1	0.98	0.98	
9	CC1	CC1	0.98	0.98	
10	CC1	CC1	0.98	0.98	
11	SSC	SSC	1.12	1.12	
12	IB1	IB1	0.78	0.78	
13	CC1	CC1	0.98	0.98	
14	RMA	RMA	1.17	1.17	
15	SSC	SSC	1.12	1.12	
16	SSC	SSC	1.12	1.12	
17	SSC	SSC	1.12	1.12	
18	PE1	PE1	0.79	0.79	

DISALLOW PHYSICAL THERAPY

OFFICE OF THE MEDICAID INSPECTOR GENERAL
WINDSOR PARK NURSING HOME
AUDIT #13-4834
FINDINGS BY SAMPLE NUMBER

Sample #	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS
19	RMA	IA1	1.17	0.61	DISALLOW PHYSICAL THERAPY
20	SSC	SSC	1.12	1.12	
21	RMA	RMA	1.17	1.17	
22	RMB	RMB	1.22	1.22	
23	SSC	SSC	1.12	1.12	
24	PE1	PE1	0.79	0.79	
25	RMA	PA1	1.17	0.46	
26	CC1	CC1	0.98	0.98	
27	CC1	CC1	0.98	0.98	
TOTALS					<u>4</u>

OFFICE OF THE MEDICAID INSPECTOR GENERAL
WINDSOR PARK NURSING HOME
AUDIT #13-4834
MDS DETAILED FINDINGS

MDS FINDINGS

SAMPLE SELECTION

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

Physical Therapy

In 4 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 2, 4, 19, 25

RUGS-II Classifications Overturned

In 4 instances, the RUG classifications were overturned. 2, 4, 19, 25

10 NYCRR §86-2.10, Volume A-2

OFFICE OF THE MEDICAID INSPECTOR GENERAL
WINDSOR PARK NURSING HOME
AUDIT #13-4834

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.

.....

Sample #2:

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

Item # O0400C Physical Therapy

Facility Comment: "Reconsideration: Ashraf PLOF was independent using RW ad lib within the facility. Upon IE, resident needs supervision to CGA with transfers and ambulation using RW with verbal and tactile cues with gait abnormality. Upon I.E. Resident demonstrated decreased balance and muscle strength. Resident Increased fall risk because of these declines. PT services for two weeks ensured quality of life by returning the resident back to PLOF and ensured no fall incident after improving balance and strength thereby gain independence in transfers and ambulation. As per Jimmo vs Sebelius ruling the services provided would be considered skilled as the patient benefitted from the care and it required the skills, knowledge, and judgment of a therapist. The resident benefitted from the intervention to prevent further decline and ensure the resident maintains highest practical level."

OMIG Response to Facility Comment:

The MDS Assessment Reference Date (ARD) is 07/09/12.

The 7-day look back period is 07/03/12 - 07/09/12.

Documentation submitted and reviewed:

The facility did not submit additional documentation for OMIG review.

Physical Therapy: The MDS claimed 5 days, 150 minutes of Physical Therapy for the 7-day look back period.

The facility did not submit additional documentation to support the medical need for Physical Therapy services.

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

Sample #4:

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

Item # O0400C Physical Therapy

Facility Comment: "Reconsideration: Clemence PLOF: was on floor ambulation program with RW with CGA with verbal and tactile cues up to 100 ft 1-2x daily. I.E. showed CGA to Min assists in transfers and ambulation. Resident was able to follow 1-2 step direction in English/French. Upon I.E. Resident demonstrated decreased balance and muscle strength. Resident increased fall risk because of these declines. PT services for more than 2 weeks ensured quality of life by returning the resident back to PLOF and ensured no fall incident after improving balance and strength thereby improving ambulation to 100 ft. using RW with CGA. If not for PT intervention, resident most likely decline in functional mobility and cognition. As per Jimmo vs Sebelius ruling the services provided would be considered skilled as the patient benefitted from the care and it required the skills, knowledge, and judgment of a therapist. The resident benefitted from the intervention to prevent further decline and ensure the resident maintains highest practical level."

OMIG Response to Additional Facility Comment:

The MDS Assessment Reference Date (ARD) is 07/13/12.

The 7-day look back period is 07/07/12 - 07/13/12.

Documentation submitted and reviewed:

The facility did not submit additional documentation for OMIG review.

Physical Therapy: The MDS claimed 5 days, 159 minutes of Physical Therapy for the 7-day look back period.

The facility did not submit additional documentation to support the medical need for Physical Therapy services.

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

Sample #19:

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

Item # O0400C Physical Therapy

Facility Comment: "Reconsideration: Moshin PLOF was independent using RW. Upon IE, resident needs supervision with decreased balance and muscle strength. Resident Increased fall risk because it of these decline. PT services for two weeks ensured quality of life by returning the resident back to PLOF and ensured no fall incident after improving balance and strength thereby gained independence in transfers and ambulation using RW. If not for PT intervention, resident will decline in ambulation and may impact quality of life. As per Jimmo vs Sebelius ruling the services provided would be considered skilled as the patient benefitted from the care and it required the skills, knowledge, and judgment of a therapist. The resident benefitted from the intervention to prevent further decline and ensure the resident maintains highest practical level."

OMIG Response to Facility Comment:

The MDS Assessment Reference Date (ARD) is 06/04/12.

The 7-day look back period is 05/29/12 - 06/04/12.

Documentation submitted and reviewed:

The facility did not submit additional documentation for OMIG review.

Physical Therapy: The MDS claimed 5 days, 153 minutes of Physical Therapy for the 7-day look back period.

The facility did not submit additional documentation to support the medical need for Physical Therapy services.

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

Sample #25:

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

Item # O0400C Physical Therapy

Facility Comment: "Reconsideration: Joy PLOF was independent using RW ad lib within the facility. Upon IE, resident needs supervision to CGA with transfers and ambulation using RW with verbal and tactile cues with gait abnormality. Upon I.E. Resident demonstrated decreased balance and muscle strength. Resident Increased fall risk because of these declines. PT services for two weeks ensured quality of life by returning the resident back to PLOF and ensured no fall incident after improving balance and strength thereby gain independence in transfers and ambulation using RW. As per Jimmo vs Sebelius ruling the services provided would be considered skilled as the patient benefitted from the care and it required the skills, knowledge, and judgment of a therapist. The resident benefitted from the intervention to prevent further decline and ensure the resident maintains highest practical level."

OMIG Response to Facility Comment:

The MDS Assessment Reference Date (ARD) is 06/04/12.

The 7-day look back period is 05/29/12 - 06/04/12.

Documentation submitted and reviewed:

The facility did not submit documentation for OMIG review.

Physical Therapy: The MDS claims 5 days, 152 minutes of Physical Therapy for the 7-day look back period.

The facility did not submit additional documentation to support medical need for Physical Therapy services.

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