



**Office of the  
Medicaid Inspector  
General**

**ANDREW M. CUOMO**  
Governor

**DENNIS ROSEN**  
Medicaid Inspector General

August 31, 2016

[REDACTED]  
Forest Hills Care Center  
(aka Forest Hills Nursing Home)  
71-44 Yellowstone Boulevard  
Forest Hills, New York 11375

Re: MDS Final Audit Report  
Audit #: 13-4873  
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 Forest Hills Care Center (aka Forest Hills 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 January 8, 2016. 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 \$11,447.80 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 ([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  
FOREST HILLS CARE CENTER  
AUDIT 13-4873  
CALCULATION OF AUDIT IMPACT

| RATE TYPE                         | DECREASED IN DIRECT<br>COMPONENT OF RATE* | MEDICAID DAY | IMPACT             |
|-----------------------------------|---|--------------|--------------------|
| Part B Eligible/Part B D Eligible | \$1.28                                    | 8,190        | \$10,483.20        |
| Non-Medicare/Part D Eligible      | \$1.30                                    | 742          | \$964.60           |
| Total                             |   |              | <u>\$11,447.80</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  
 FOREST HILLS CARE CENTER  
 AUDIT #13-4873  
 FINDINGS BY SAMPLE NUMBER

| Sample # | Reported RUG | Derived RUG | Reported RUG Weight | Derived RUG Weight | DETAILED FINDINGS                      |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
|----------|--------------|-------------|---------------------|--------------------|--|--|------------------------------------|------------------------------------|--------------------------------------|--------------------------------------|--------------------------|-------------------------|---|---------------------|--|--|--|--|--|---|
|          |              |             |                     |                    | DISALLOW BED MOBILITY SELF PERFORMANCE | DISALLOW BED MOBILITY SUPPORT PROVIDED | DISALLOW TRANSFER SELF PERFORMANCE | DISALLOW TRANSFER SUPPORT PROVIDED | DISALLOW TOILET USE SELF PERFORMANCE | DISALLOW TOILET USE SUPPORT PROVIDED | DISALLOW WEIGHT (POUNDS) | DISALLOW SPEECH THERAPY | DISALLOW NURSING REHABILITATION CLAIMED | DISALLOW BMI ADD-ON |  |  |  |  |  |   |
| 1        | CC1          | CB1         | 0.98                | 0.86               | 1                                      |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 2        | CC1          | CB1         | 0.98                | 0.86               | 1                                      | 1                                      |                                    | 1                                  | 1                                    | 1                                    |                          |                         |   |                     |  |  |  |  |  |   |
| 3        | PB1          | PB1         | 0.58                | 0.58               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 4        | RMC          | RMC         | 1.27                | 1.27               | 1                                      |  |                                    |                                    |                                      | 1                                    |                          |                         |   |                     |  |  |  |  |  |   |
| 5        | CC1          | CC1         | 0.98                | 0.98               | 1                                      |  | 1                                  |                                    |                                      |                                      | 1                        |                         |   |                     |  |  |  |  |  | 1 |
| 6        | PC2          | PC1         | 0.67                | 0.66               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  | 1 |
| 7        | CB1          | CB1         | 0.86                | 0.86               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 8        | RMA          | IA1         | 1.17                | 0.61               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  | 1 |
| 9        | RMA          | RMA         | 1.17                | 1.17               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 10       | RHC          | RHC         | 1.40                | 1.40               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 11       | RMX          | RMX         | 1.96                | 1.96               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 12       | PD1          | PD1         | 0.72                | 0.72               |  |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| 13       | PE1          | PE1         | 0.79                | 0.79               | 1                                      |  |                                    |                                    |                                      |                                      |                          |                         |   |                     |  |  |  |  |  |   |
| TOTALS   |              |             |                     |                    | 5                                      | 1                                      | 3                                  | 2                                  | 6                                    | 1                                    | 1                        | 1                       | 1                                       | 1                   |  |  |  |  |  |   |

**OFFICE OF THE MEDICAID INSPECTOR GENERAL  
FOREST HILLS CARE CENTER  
AUDIT #13-4873  
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 5 instances, documentation did not support resident required total assist every time. 1, 2, 4, 5, 13

**Bed Mobility Support Provided**

In 1 instance, documentation did not support resident was a 2+ person physical help at least once. 2

**Transfer Self-Performance**

In 3 instances, documentation did not support resident required total assist every time. 1, 2, 5

**Transfer Support Provided**

In 2 instances, documentation did not support resident was a 2+ person physical help at least once. 1, 2

**Toilet Use Self-Performance**

In 6 instances, documentation did not support resident required total assist every time. 1, 2, 4, 5, 10, 13

**Toilet Use Support Provided**

In 1 instance, documentation did not support resident was a 2+ person physical help at least once. 1

**Swallowing/Nutritional Status**

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 of conditions that could affect the residents' ability to maintain adequate nutrition and hydration. MDS 3.0 manual guidelines will be followed when examining the medical records.

*42 CFR §483.20 (b) (xvii)*  
*MDS 3.0 Manual K0100-0700*

In 1 instance, documentation reflected incorrect resident weight in the past 30 days. 5

**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 O0400-0700*

Speech-Language Pathology

In 1 instance, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 8

Restorative Nursing Programs

In 1 instance, documentation did not support measurable goals and/or periodic evaluation of the nursing rehabilitation program. 6

BMI Add-on

In 1 instance, documentation does not support resident BMI was less than 35%. 5

*10 NYCRR §86-2.40 (z)(2)*

RUGS-II Classifications Overturned

In 4 instances, the RUG classifications were overturned. 1, 2, 6, 8

*10 NYCRR §86-2.10, Volume A-2*

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AUDIT #13-4873

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 #8**

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

Item #O0400A: Speech Therapy

Facility Comment: Facility submitted a summary of resident status leading to resident need for Speech Therapy. Included in summary is explanation regarding scope of practice of a speech language pathologist.

OMIG Response: MDS Assessment Reference Date (ARD) is 06/08/12. The 7-day look back period is 06/02/12 – 06/08/12.

Speech Therapy Claimed on MDS: 5 days / 175 minutes

Documentation Submitted and Reviewed: Summary submitted states "Social worker progress note dated 05/23/12 resident d/c'd from Namenda and increased Celexa due to changes in confusion." Nursing referral dated 06/01/12 request speech therapy evaluation due to "cognitive problems." Summary states speech therapy evaluation dated 06/01/12 documents "significant recent decline in cognitive linguistic abilities." There is no interdisciplinary documentation relevant to the ARD from physician and licensed nursing staff to support the medical need for skilled Speech Therapy services. There is a lack of clear and comprehensive interdisciplinary documentation. Summary submitted states that speech therapy "discharge summary dated 06/26/12 denotes some improvement in goals listed". However, therapist also writes that "there is increased confusion and decreased expressive language."

Documentation does not support the MDS Manual Section O: *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 the residents.*

Documentation does not support the following MDS Manual's coding instructions for skilled Speech Therapy: (Section O)

- *Code only medically necessary therapies that occurred after admission/re-admission to the nursing home.*
- *The services must be provided with the expectation that the condition of the patient will improve materially in a reasonable and predictable period of time and the services must be reasonable and necessary for treatment of the resident's condition.*

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