



Office of the  
Medicaid Inspector  
General

ANDREW M. CUOMO  
Governor

DENNIS ROSEN  
Medicaid Inspector General

August 25, 2016

[REDACTED]  
The Heritage Rehabilitation and Health Care Center  
(aka Palm Tree Center for Nursing and Rehabilitation)  
5606 15<sup>th</sup> Avenue  
Brooklyn, New York 11219

Re: MDS Final Audit Report  
Audit #: 14-1141  
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 Heritage Rehabilitation and Health Care Center (aka Palm Tree Center for Nursing and Rehabilitation) 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 November 25, 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 \$23,819.61 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 [REDACTED]

[REDACTED]

Division of Medicaid Audit  
Office of the Medicaid Inspector General

[REDACTED]

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
THE HERITAGE REHABILITATION AND HEALTH CARE CENTER  
AUDIT # 14-1141  
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAYS	IMPACT
Part B Eligible/Part B D Eligible	\$2.35	9,025	\$21,208.75
Non-Medicare/Part D Eligible	\$2.38	1,097	\$2,610.86
Total			<u>\$23,819.61</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 HERITAGE REHABILITATION AND HEALTH CARE CENTER  
 AUDIT #14-1141  
 FINDINGS BY SAMPLE NUMBER

Sample #	[REDACTED]	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS				
						DISALLOW BED MOBILITY SUPPORT PROVIDED	DISALLOW TOILET USE SELF PERFORMANCE	DISALLOW OCCUPATION THERAPY	DISALLOW PHYSICAL THERAPY	DISALLOW NURSING REHABILITATION CLAIMED
1	[REDACTED]	RHC	RHC	1.40	1.40					
2	[REDACTED]	RUB	RVB	1.53	1.39			1	1	
3	[REDACTED]	RVC	RVC	1.53	1.53					
4	[REDACTED]	RVC	RVC	1.53	1.53		1			
5	[REDACTED]	CC1	CC1	0.98	0.98					
6	[REDACTED]	RMC	RMB	1.27	1.22	1				
7	[REDACTED]	IA1	IA1	0.61	0.61					
8	[REDACTED]	RML	RML	1.74	1.74					
9	[REDACTED]	CC1	CC1	0.98	0.98					
10	[REDACTED]	RUC	RUC	1.82	1.82					
11	[REDACTED]	RMC	CB1	1.27	0.86			1		
12	[REDACTED]	PD2	PD1	0.73	0.72					1
13	[REDACTED]	RVB	RVB	1.39	1.39					
14	[REDACTED]	CC1	CC1	0.98	0.98					
TOTALS						1	1	2	1	1

**OFFICE OF THE MEDICAID INSPECTOR GENERAL  
THE HERITAGE REHABILITATION AND HEALTH CARE CENTER  
AUDIT #14-1141  
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 Support Provided**

In 1 instance, documentation did not support resident was a 2+ person physical help at least once. 6

**Toilet Use Self-Performance**

In 1 instance, documentation did not support resident required total assist every time. 4

**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 1 instance, documentation reflected incorrect individual/concurrent/group minutes. 2

In 1 instance, documentation reflected incorrect days. 2

In 1 instance, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 11

Physical Therapy

In 1 instance, documentation reflected incorrect individual/concurrent/group minutes. 2

In 1 instance, documentation reflected incorrect days. 2

Restorative Nursing Programs

In 1 instance, documentation did not support resident participated in a nursing rehabilitation program. 12

RUGS-II Classifications Overturned

In 4 instances, the RUG classifications were overturned. 2, 6, 11, 12

*10 NYCRR §86-2.10, Volume A-2*

**OFFICE OF THE MEDICAID INSPECTOR GENERAL**  
**THE HERITAGE REHABILITATION AND HEALTH CARE CENTER**  
**AUDIT # 14-1141**

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:**

Disallowance O 0400B Occupational Therapy and O 0400C Physical Therapy claimed days/minutes.

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

No additional documentation provided on the above samples for review.

**Disposition:** The draft report finding for the above samples remain unchanged and will be included in the final report.

**Sample #11:**

Disallowance O 0400B occupational Therapy:

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

Disallowance O 0400B occupational Therapy.

**Facility Comment:**

OT evaluation identified the impairments; goals were set to improve the functional decline and the services were reasonable and necessary.

*Documentation submitted and reviewed:*

Nurses notes 11/3/11, MD order 11/3/11, Therapy orders 11/3/11, Evaluation/POC 11/3/11, Recertification 12/3/11, Treatment Notes 12/2 – 12/7/2011, Discharge Summary 12/8/2011, Billing Logs 12/1/2011.

**OMIG Response:**

The MDS Assessment Reference Date (ARD) is 12/07/11.

The 7-day look back period is 12/1/11 – 12/7/11.

Nurse's note on 11/3/11 stated that a staff member reports the patient requires Hoyer Lift with 2 people to transfer and an OT evaluation is required. No further documentation for the month of November or December 2011 regarding medical necessity was noted.

The Facility documentation provided did not have interdisciplinary documentation relevant to the ARD from the licensed nursing staff and the physician to support the medical need for skilled Occupational Therapy services. A decline in the resident's functional status could not be determined from physician and nursing disciplines.

Skilled therapy was provided instead of the routine maintenance that was more appropriate for the patient's condition.

**ASSESSMENT:**

**Documentation does not support the MDS Manual's coding instructions for Occupational Therapy:**

- 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.
- Orders written to increase the resident's RUG classification and facility payment are not acceptable.

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