



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
90 Church Street, 14th Floor
New York, New York 10007

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

December 30, 2014

[REDACTED]
Highland Care Center, Inc.
91-31 175th Street
Jamaica, New York 11432

Re: Medicaid Rate Audit #10-2387
NPI Number: [REDACTED]
Provider Number: [REDACTED]

Dear [REDACTED]

Enclosed is the revised final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Highland Care Center, Inc.'s (the "Facility") Medicaid rates for the rate period January 1, 2005 through December 31, 2008. The final audit report issued on November 6, 2014 has been rescinded due to an error in the calculation of the Medicaid overpayment. In accordance with 18 NYCRR Section 517.6, this audit report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated June 25, 2014, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A) and the report has been either revised accordingly and/or amended to address your comments (see Attachment B). Consideration of your comments resulted in an overall reduction of \$237,568. to the total Medicaid overpayment shown in the draft audit report. As previously stated in the draft audit report, the Medicare Part B and D offsets were not within the scope of the review and may be examined as part of a future audit. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$598,000. This overpayment is subject to Department of Health ("DOH") and Division of Budget ("DOB") final approval. While not anticipated, any difference between the calculated overpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below.

OPTION #1: Make full payment by check or money order within 20 days of the date of the final audit report. The check should be made payable to the New York State Department of Health and be sent with the attached Remittance Advice to:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #10-2387
Albany, New York 12237-0048

OPTION #2: Enter into a repayment agreement with the Office of the Medicaid Inspector General. If your repayment terms exceed 90 days from the date of the final audit report, recoveries of amounts due are subject to interest charges at the prime rate plus 2%. If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, the OMIG will impose a 50% withhold after 20 days until an agreement is established. OMIG acceptance of the repayment agreement is based on your repaying the Medicaid overpayment as agreed. The OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against any amount owed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days at the following:

Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

[REDACTED]

You have the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. You may not request a hearing to raise issues related to rate setting or rate setting methodology. In addition, you may not raise any issue that was raised or could have been raised at a rate appeal with your rate setting agency. You may only request a hearing to challenge specific audit adjustments which you challenged in a response to the draft audit report.

If you wish 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, New York 12204

Questions regarding the request for a hearing should be directed to the Office of Counsel at [REDACTED]

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

Should you have any questions, please contact [REDACTED] or through email at [REDACTED]. Please refer to audit number 10-2387 in all correspondence.

Sincerely,

[REDACTED]

Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Enclosures:

- ATTACHMENT A - Facility Draft Audit Report Comments and OMIG Responses
- ATTACHMENT B - Summary of Changes from Draft Report to Final Report
- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)
- EXHIBIT V - Correction of Patient Days
- EXHIBIT VI - Return on and Return of Real Property Equity Disallowances/(Allowances)

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

**NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE**

NAME AND ADDRESS OF AUDITEE

Highland Care Center, Inc.
91-31 175th Street
Jamaica, New York 11432

NPI #: [REDACTED]
PROVIDER #: [REDACTED]

AUDIT #10-2387

AMOUNT DUE: \$598,000

AUDIT	<input type="checkbox"/>	PROVIDER
TYPE	<input checked="" type="checkbox"/>	RATE
	<input type="checkbox"/>	PART B
	<input type="checkbox"/>	OTHER:

CHECKLIST

1. To ensure proper credit, please enclose this form with your check.
2. Make checks payable to: *New York State Department of Health*
3. Record the Audit Number on your check.

4. Mail check to:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #10-2387
Albany, New York 12237-0048

5. If the provider number shown above is incorrect, please enter the correct number below.

CORRECT PROVIDER NUMBER

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
FACILITY DRAFT AUDIT REPORT COMMENTS AND OMIG RESPONSE

All OMIG adjustments were accepted by the Facility except for those shown below. The following details the disposition of final report adjustments after consideration of the Facility's draft audit report response comments. See Attachment B for adjustment changes included in the final audit report.

EXHIBIT III COMMENTS

Sales Tax Disallowances

Facility Comment

Please correct the doubling up of the sales tax adjustment.

OMIG Response

Based on the Facility's response, the draft audit report disallowances were revised.

Disposition: The draft audit report disallowances were reduced as shown in Attachment B.

EXHIBIT V COMMENTS

Correction of Patient Days

Based on the draft report response, the disallowance has been eliminated.

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
SUMMARY OF CHANGES FROM DRAFT REPORT TO FINAL REPORT

<u>EXHIBIT III - OPERATING EXPENSE</u> <u>DISALLOWANCES/(ALLOWANCES)</u>	<u>Rate</u> <u>Period</u>	Draft Disallowance <u>(Allowance)</u>	<u>Change</u>	Final Disallowance <u>(Allowance)</u>
ELIMINATION OF SALES TAX EXPENSE	Operating Base	\$ 55,521	\$ (27,759)	\$ 27,762

<u>EXHIBIT V - CORRECTION OF PATIENT DAYS</u>	<u>Rate</u> <u>Period</u>	Draft Increase <u>(Decrease)</u>	<u>Change</u>	Final Increase <u>(Decrease)</u>
CORRECTION OF PATIENT DAYS	2005	2,620	(2,620)	-
	2006	-	-	-
	2007	666	(666)	-
	2008	(208)	208	-

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED PART B & D NON-ELIGIBLE RATES*</u>	<u>FINAL PART B & D NON-ELIGIBLE RATES</u>	<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
01/01/05 - 02/28/05	\$208.55	\$207.02	\$1.53	15,267	\$ 23,359
03/01/05 - 03/31/05	210.88	209.33	1.55	8,105	12,563
04/01/05 - 05/31/05	210.88	209.33	1.55	15,720	24,366
06/01/05 - 06/30/05	211.23	209.70	1.53	7,546	11,545
07/01/05 - 08/31/05	211.23	209.70	1.53	16,213	24,806
09/01/05 - 11/30/05	215.44	213.89	1.55	25,690	39,820
12/01/05 - 12/31/05	202.45	200.94	1.51	8,801	13,290
01/01/06 - 02/28/06	211.13	209.72	1.41	16,791	23,675
03/01/06 - 03/31/06	214.72	213.31	1.41	8,728	12,306
04/01/06 - 05/31/06	214.23	212.82	1.41	16,867	23,782
06/01/06 - 08/31/06	221.25	219.80	1.45	25,275	36,649
09/01/06 - 11/30/06	223.14	221.71	1.43	25,140	35,950
12/01/06 - 12/31/06	226.19	224.70	1.49	8,653	12,893
01/01/07 - 03/31/07	233.43	231.97	1.46	24,635	35,967
04/01/07 - 06/30/07	232.12	230.66	1.46	24,981	36,472
07/01/07 - 12/31/07	230.74	229.28	1.46	51,100	74,606
01/01/08 - 03/31/08	235.46	233.89	1.57	24,776	38,898
04/01/08 - 06/30/08	231.34	229.77	1.57	24,918	39,121
07/01/08 - 12/31/08	235.32	233.75	1.57	49,638	77,932
TOTAL MEDICAID OVERPAYMENT					<u>\$ 598,000</u>

* Any differences between these rates and the rates listed in Exhibit II of this audit report represent rate changes made subsequent to OMIG's audit. These changes remain open to future audit by the OMIG. For the purpose of this Exhibit, the Medicare Part B and D rates are not shown. The rate decrease/(increase) for those rates is the same as shown for the Medicare Part B and D non-eligible rates

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 91 percent for the period under audit and the Medicaid per diem rates audited are shown below. Any differences between these rates and the "Issued Rates" listed in Exhibit I of this audit report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

<u>RATE PERIOD</u>	<u>ISSUED MEDICARE PART B & D NON-ELIGIBLE RATES *</u>
01/01/05 - 02/28/05	\$207.55
03/01/05 - 03/31/05	209.89
04/01/05 - 05/31/05	209.89
06/01/05 - 06/30/05	210.24
07/01/05 - 08/31/05	210.24
09/01/05 - 11/30/05	214.45
12/01/05 - 12/31/05	201.45
01/01/06 - 02/28/06	210.11
03/01/06 - 03/31/06	213.68
04/01/06 - 05/31/06	213.19
06/01/06 - 08/31/06	220.22
09/01/06 - 11/30/06	222.12
12/01/06 - 12/31/06	225.14
01/01/07 - 03/31/07	232.47
04/01/07 - 06/30/07	231.15
07/01/07 - 12/31/07	229.77
01/01/08 - 03/31/08	234.52
04/01/08 - 06/30/08	230.39
07/01/08 - 12/31/08	234.37

* The Medicare Part B and D rates are not shown for the purpose of this Exhibit. The Medicare Part B and D offsets were not within the scope of this audit and may be examined as part of a future audit.

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	COST CENTER	OPERATING EXPENSE COMPONENT				
		DIRECT	INDIRECT	01/01/05-12/31/05 NON-COMP.	01/01/06-12/31/06 NON-COMP.	01/01/07-12/31/08 NON-COMP.
Operating Expense Allowed per HE-12B		\$ 3,023,855	\$ 2,052,344	\$ 327,322	\$ 327,322	\$ 210,756
Less Disallowances/(Allowances):						
SALES TAX DISALLOWANCES						
Beginning with the 2005 rate, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. Prior to 2005, the sales tax expense associated with operating expense was included in the appropriate operating expense category and reimbursed in the operating per diem. By reporting all sales tax in property, the Facility is being reimbursed for sales tax in both the operating and property per diems. In order to eliminate the duplication, sales tax expense was excluded from the March 1, 1989 through August 31, 1989 base period.						
Regulations: 10 NYCRR Sections 86-2.17(a) & (d)						
Activities	014	139				
Social Svc.	021		1			
Physical Ther.	039		462			
Central Svc.	043	12,302				
Admin. Svc.	005			1,896		
Plant Oper.	006			2,369		
Laundry	009			319		
Housekeeping	010			1,629		
Patient Food	011			4,922		
Utilities	106				3,723	
Total Disallowances/(Allowances)		\$ 12,904	\$ 11,135	\$ 3,723	\$ -	\$ -
TOTAL AUDITED OPERATING EXPENSE BY COMPONENT		\$ 3,010,951	\$ 2,041,209	\$ 323,599	\$ 327,322	\$ 210,756

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS			
			2005	2006	2007	2008
Property Expense Allowed per HE-12B			\$ 934,358	\$ 917,305	\$ 1,301,568	\$ 1,362,926
Less Disallowances/(Allowances):						
1. RETURN ON AND RETURN OF EQUITY DISALLOWANCES						
The historical cost used to calculate the Facility's return on and return of equity in the 2005 through 2008 HE-12B included both the historical cost and capitalized lease amounts for the same leaseshold improvements reported in the Facility's 2003 RHCF-4. The duplication was eliminated on audit by removing the capitalized lease amounts from historical cost. This resulted in adjustments to the accumulated reimbursement and the return on and return of equity. (See Exhibit VI)						
Regulations: 10 NYCRR Sections 86-2.17(a) & (d) & 86-2.21, PRM-1 Section 2102.3						
2. PROPERTY INSURANCE DISALLOWANCES						
The Facility was reimbursed for business interruption insurance in the capital component of the rate. Business interruption insurance does not relate to the loss of or damage to the Facility's physical property and, consequently, is only allowable in the operating component of the rate. Since insurance premiums related to business interruption are not allowable in the property component, disallowances were necessary.						
Regulations: 10 NYCRR Sections 86-2.10(g) & 2.17(a) & (d), PRM-1 Sections 2161 & 2806.2						
3. REAL ESTATE TAX DISALLOWANCES						
Providers receiving payment on the basis of reimbursable cost must provide adequate cost data based on financial and statistical records which can be verified on audit. Cost data must be current, accurate and in sufficient detail. Audited real estate taxes varied from taxes allowed in rate years 2007 and 2008, resulting in disallowances.						
Regulations: 10 NYCRR Sections 86-2.17 (a) & (d) & 86-2.22, PRM-1 Sections 2102.2, 2300, & 2304						
4. MOVABLE EQUIPMENT DEPRECIATION ALLOWANCE						
The Facility filed a hotline appeal and resubmitted the 2003 RHCF-4 cost report to correct errors in movable equipment depreciation. The appeal was processed by the Bureau of Long Term Care Reimbursement. However, the corrected movable equipment depreciation was not included in the promulgated rates for 2005. The OMIG has determined the depreciation per the appeal to be proper. As a result, an allowance was made to reflect the amount supported by the Facility's records.						
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304						
	Ret. Of Equity	001	40,323	40,324	40,324	40,324
	Ret. On Equity	001	18,963	15,252	14,819	12,266
	Other Insurance	006	3,964	4,828		
	Insurance	006			5,830	
	Insurance	005				4,163
	Other	006			3,676	5,052
	ME Depr.	002	(36,084)			

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS			
			2005	2006	2007	2008
5. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE						
Allowable costs shall not include any interest charged related to rate determination or penalty imposed by governmental agencies or courts, and the costs of policies obtained solely to insure against the imposition of such a penalty. Interest expense imposed by the New York State Supreme Court on outstanding payments due to collective bargaining agencies was disallowed. Regulation: 10 NYCRR Section 86-2.17(g)	WCI	005	51,639			
6. EQUIPMENT RENTAL EXPENSE DISALLOWANCES						
a) Providers receiving payment on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. The cost information must be current, accurate, and in sufficient detail. Certain rental expenses could not be substantiated. As a result, disallowances were necessary. Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2300 & 2304	Rent A	005		400		
b) Rental expenses associated with supplies are considered operating expenses and should not be included in the property component of the rate. Disallowances were necessary to remove these amounts. Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2102.2 & 2102.3	Rent B	005			704	395
c) The Facility was reimbursed rental expense on certain capitalized leasehold improvement leases. These improvements were also included in real property historical cost and reimbursed through the return on and return of equity calculation, resulting in duplicate reimbursement. Consequently, disallowances were necessary. Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2102.1 & 2102.3	Rent A Rent B	005 005	2,784			7,930
d) The Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense. Since the expense is included in the formula to determine the base, mean, and ceiling prices used to establish the indirect expense corridor, the reimbursement of telephone rental expense in the property component amounts to duplicate reimbursement. Consequently, a disallowance was necessary. Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Section 2102.3	Rent B	005				12,564

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS			
			2005	2006	2007	2008
6. EQUIPMENT RENTAL EXPENSE DISALLOWANCES (CONT.)						
e) Facilities receiving payment on the basis of reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. In addition, the cost data is required to be current, accurate, and in sufficient detail. Audited rental expense varied from the expenses allowed in the promulgated rates resulting in disallowances. Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2300 & 2304	Rent B	005			538	298
7. SALES TAX DISALLOWANCE						
The Facility erroneously reported sales tax pertaining to capitalized leases which should not have been accrued. As a result, an adjustment was necessary. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2102.3	Sales Tax	006		7,187		
8. AUTOMOBILE EXPENSES DISALLOWANCES						
Facilities receiving payment on the basis of reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. In addition, the cost data is required to be current, accurate, and in sufficient detail. The Facility was unable to provide documentation or demonstrate the relationship to patient care for reported automobile expenses. Consequently, reported expenses related to automobile leases and insurance were disallowed. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2105.9, & 2300	Rent A	005	7,500	18,000		
	Rent B	005			21,600	17,987
	Auto Ins.	006	3,319	8,815	8,194	12,048
Total Disallowances/(Allowances)			<u>\$ 92,408</u>	<u>\$ 94,806</u>	<u>\$ 95,685</u>	<u>\$ 113,027</u>
TOTAL AUDITED PROPERTY EXPENSE			<u>\$ 841,950</u>	<u>\$ 822,499</u>	<u>\$ 1,205,883</u>	<u>\$ 1,249,899</u>

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
CORRECTION OF PATIENT DAYS

Based on information and documentation provided by the Facility, the audit adjustment has been eliminated.

HIGHLAND CARE CENTER, INC. - AUDIT #10-2387

RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008

RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)

<u>Return of Equity Calculation</u>	RATE PERIODS			
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Real Property Historical Cost per HE-12B	\$ 9,123,284	\$ 9,155,899	\$ 9,197,838	\$ 9,234,645
Audit Disallowances/(Allowances)	<u>403,238</u>	<u>403,238</u>	<u>403,238</u>	<u>403,238</u>
Audited Historical Cost	\$ 8,720,046	\$ 8,752,661	\$ 8,794,600	\$ 8,831,407
Less: Accumulated Reimbursement	<u>4,521,950</u>	<u>4,941,760</u>	<u>5,365,193</u>	<u>5,793,869</u>
Audited Net Equity	\$ 4,198,096	\$ 3,810,901	\$ 3,429,407	\$ 3,037,538
Remaining Useful Life	<u>10</u>	<u>9</u>	<u>8</u>	<u>7</u>
Audited Return of Equity	\$ 419,810	\$ 423,433	\$ 428,676	\$ 433,934
Promulgated Return of Equity	<u>460,133</u>	<u>463,757</u>	<u>469,000</u>	<u>474,258</u>
Disallowance/(Allowance)	<u>\$ 40,323</u>	<u>\$ 40,324</u>	<u>\$ 40,324</u>	<u>\$ 40,324</u>
 <u>Return on Equity Calculation</u>				
Audited Net Equity	\$ 4,198,096	\$ 3,810,901	\$ 3,429,407	\$ 3,037,538
Less: ½ Current Return of Equity	<u>209,905</u>	<u>211,717</u>	<u>214,338</u>	<u>216,967</u>
Audited Net Investment	\$ 3,988,191	\$ 3,599,184	\$ 3,215,069	\$ 2,820,571
Rate of Return	<u>4.95%</u>	<u>4.45%</u>	<u>4.90%</u>	<u>4.68%</u>
Audited Return on Equity	\$ 197,415	\$ 160,164	\$ 157,538	\$ 132,003
Promulgated Return on Equity	<u>216,378</u>	<u>175,416</u>	<u>172,357</u>	<u>144,269</u>
Disallowance/(Allowance)	<u>\$ 18,963</u>	<u>\$ 15,252</u>	<u>\$ 14,819</u>	<u>\$ 12,266</u>