NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

BED RESERVE AUDIT
BEACON REHABILITATION AND NURSING CENTER formally
OCEAN PROMENADE NURSING CENTER
JULY 1, 2010 – JUNE 30, 2012
AUDIT# 14-3926

FINAL AUDIT REPORT

James C. Cox
Medicaid Inspector General
December 11, 2014

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STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

December 11, 2014

[redacted]
Beacon Rehabilitation and Nursing Center formally
Ocean Promenade Nursing Center
140 Beach 113th Street
Rockaway Park, NY 11694

Re: Bed Reserve Audit
Final Audit Report
Audit# 14-3926
Provider #[redacted]

Dear [redacted]

Enclosed is the Office of the Medicaid Inspector General's ("OMIG") Final Audit Report of bed reserve payments to Beacon Rehabilitation and Nursing Center formally *Ocean Promenade Nursing Center* (the "Facility") for period of July 1, 2010 to June 30, 2012. In accordance with Section 517.6 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York, this report represents the final determination on issues found during the review.

After reviewing the Facility's November 28, 2014 response (Attachment IX) to the OMIG's October 10, 2014 Draft Audit Report, the OMIG has reduced the total amount of disallowances and interest from $36,819 to $36,151. A detailed explanation of the revision is included in the findings section of this final report

BACKGROUND, PURPOSE & SCOPE

Pursuant to Title XIX of the Social Security Act, the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The federal and state governments jointly fund and administer the Medicaid program. In New York State, the Department of Health ("DOH") administers the Medicaid program. As part of this responsibility, the Department's Office of the Medicaid Inspector General (the "OMIG") conducts audits and reviews of various providers of Medicaid reimbursable services,

equipment and supplies. These audits and reviews are directed at ensuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in New York Public Health Law, New York Social Services Law, the regulations of the Department of Health (Titles 10 and 18 of the NYCRR), the regulations of Office of Mental Health (Title 14 of the NYCRR) and the Department of Health's Medicaid Provider Manuals and *Medicaid Update* publications.

The purpose of the audit was to ensure that the Facility was in compliance with 18 NYCRR §505.9(d) and effective July 19, 2010 New York DOH DAL/DRS 10-08 and supplement letters regarding Chapter 109 of the Laws of 2010 §2808(25) Public Health Law; which addresses the eligibility and requirements to bill Medicaid for a reserved bed day, §504.3 which addresses the duties of a provider by enrolling in Medicaid, and §515.2 that addresses unacceptable practices. Also, in accordance with 18 NYCRR §518.4, interest may be collected on any overpayments identified in this audit and will accrue at the current rate from the date of the overpayment.

For a bed to be reserved and billed to the Medicaid Program, the vacancy rate requirement under 18 NYCRR Section 505.9(d) states, "The department will pay an institution for a recipient's reserved bed days when the part of the institution to which the recipient will return has a vacancy rate of no more than 5 percent on the first day the recipient is hospitalized or on leave of absence."

Reserved bed day reimbursement requirements to RHCF's for Medicaid eligible individuals aged twenty-one and older listed per New York DOH DAL/DRS 10-08 and supplement letters regarding Chapter 109 of the Laws of 2010; §2808(25) of Public Health Laws "Effective July 19, 2010, the Department will reimburse a RHCF to reserve the bed for a Medicaid recipient aged twenty-one or over, for fourteen (14) days in a 12-month period for temporary hospitalizations and for ten (10) days in a 12-month period for non-hospital (therapeutic) leaves of absence...."

The scope of the audit was a review of the Facility's records to ensure that the Facility properly complied with applicable Federal and State laws, regulations, rules and policies that govern the New York State Medicaid bed reserve program related to:

1. The Facility's claim for payment was true, accurate and complete.
2. The Facility had a vacancy rate of no more than 5% on the day of the resident's temporary leave from the facility.
3. The Facility's Medicaid recipients' bed reserve days were limited reimbursement for a maximum of 14 days in 12-month period for hospitalizations and ten days in 12-month calendar period for non-hospital therapeutic leave of absences.

An analysis was completed of the Monthly Periodic Census Reports (Attachment I) that were submitted by the Facility to support the daily activity and bed reserve payments for period July 1, 2010 to June 30, 2012. Part of this analysis was to determine if any new bed-holds were billed to Medicaid by the Facility during a period where the vacancy rate exceeded 5%. The Facility had a 120 bed capacity throughout the audit period. In complying with the 5% vacancy requirement, the Facility's unoccupied bed count could not exceed 6 vacant beds at the time the Facility billed Medicaid for a new bed-hold.

FINDINGS

The OMIG reviewed each of the Facility's Medicaid recipient's bed reserve billing to ensure each recipient's bed reserve billings did not exceed the fourteen (14) days in a 12-month period for temporary hospitalizations and the ten (10) days in a 12-month period for non-hospital (therapeutic) leaves of absence limitations. The audit found that the Facility violated §2808(25) requirements by inappropriately billing Medicaid 21 hospital bed reserve days in the amount of $6,261.50 (Attachments II and III) when a Medicaid recipients' 14 hospitalization bed reserve day limit was exceeded in a 12-month period.

Using both, the monthly and daily periodic census reports provided by the Facility, the audit determined that the Facility's geriatric unit was periodically operating above a 5% vacancy rate during the period of July 1, 2010 to June 30, 2012. The audit found that the Facility violated §504.3 and §505.9(d) requirements by inappropriately billing Medicaid 79 geriatric bed reserve days in the amount of $23,742.62 (Attachments II and IV) when the Facility's vacancy rate exceeded 5%.

The Draft Audit Report initially identified 7 days of §504.3 and §505.9(d) requirement disallowances in which the Facility billed the Medicaid program for claims coded as a resident residing at the Facility while the Medicaid program paid an in-patient hospital claim for the same recipient for the same dates of service. For these instances, the OMIG determined the appropriateness of the Facility's payments as if the Facility coded the claim as a bed reserve claim since the Facility would be entitled to a bed reserve payment if the Facility's vacancy rate did not exceed 5% at the time the Facility's resident was discharged to the hospital. After reviewing the Facility's response to Draft Audit Report (Attachment IX), the 7 days in the amount of $2,027.18 listed per the Draft Audit Report were reduced to 5 days in the amount of $1,446.68 in this Final Audit Report (Attachments II, V).

The overpayments identified in this Final Audit Report were determined by applying the Facility's promulgated rates (Attachment VII) at the date this report was issued. The total combined amount of overpayment, as defined in 18 NYCRR §518.1 is $31,450.80 (Attachment VI).

Under the Health Care Assessment Program, residential health care facilities licensed under Article 28 of the Public Health Law §2807-d must pay an assessment on monthly cash receipts effective April 1, 2002. New York State Medicaid has established a reimbursement mechanism through rate code 3836 to reimburse nursing homes for the portion of the assessment that applies to days where the Medicaid Program is the primary payer for your residents. The cash receipt assessment payment made by New York State Medicaid related to each disallowed bed reserve payment is also recoverable as a disallowance of $1,510.2 in this report (Attachment VI).

In accordance with 18 NYCRR §518.4, interest may be collected and will accrue at the current rate from the date of the overpayment. Interest was calculated on the overpayments identified in this Final Audit Report using the Federal Reserve Prime rate (Attachment VII) from the date of each overpayment through the date of Draft Audit Report preparation; September 15, 2014. As a result, for the overpayments identified in

this audit, the OMIG has determined that accrued interest of $3,190.48 is owed (Attachment VI).

The overpayments identified in this Final Audit Report were determined by applying the Facility's promulgated rates at the date this report was issued (Attachment VII). Based on this determination, the total amount of overpayment, as defined in 18 NYCRR §518.1 is $36,151, (Attachment VI). Repayment of $36,151 is due to the New York State Department of Health.

PAYMENT OPTIONS

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 report. The check should be made payable to the New York State Department of Health and be sent with the attached Remittance Advice to:

New York State Department of Health
Medicaid Financial Management, B.A.M.
GNARESP Corning Tower, Room 2739
Albany, New York 12237-0016

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

PROVIDER RIGHTS

The Facility has the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. In accordance with 18 NYCRR Section 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 the Facility wishes to request a hearing, the request must be submitted in writing to:

General Counsel
Division of Counsel
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

If a hearing is held, the Facility may have a person represent the Facility or the Facility may represent itself. If the Facility chooses to be represented by someone other than an attorney, the Facility must supply along with the Facility's hearing request a signed authorization permitting that person to represent the Facility. At the hearing, the Facility may call witnesses and present documentary evidence on the Facility's behalf.

If the Facility has any questions please contact [redacted]r email at [redacted] ***Do not*** submit claim voids in response to this Final Audit Report.

Thank you.

Sincerely,

[redacted]

Division of Medicaid Audit
Office of the Medicaid Inspector General

CERTIFIED MAIL[redacted]
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Beacon Rehabilitation and Nursing Center formally *Ocean Promenade Nursing Center*
140 Beach 113th Street
Rockaway Park, NY 11694

Provider # [redacted]

AUDIT # 14-3926

AUDIT TYPE	[ ] PROVIDER [ ] RATE [ ] PART B [X] OTHER: Bed Reserve

AMOUNT DUE: $ 36,151.00

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]
Medicaid Financial Management, B.A.M.
New York State Department of Health
GNARESP Corning Tower, Room 2739
File # 14-3926
Albany, New York 12237-0016

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

CORRECT PROVIDER NUMBER