NEW YORK STATE | Office of the Medicaid Inspector General

DENNIS ROSEN
Medicaid Inspector General

Bed Reserve Audit

Final Audit Report
Audit #: 15-2795

Promenade Rehab & Health Care Center

Provider ID #: [redacted]

NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

December 16, 2015

[redacted]
Promenade Rehabilitation and Health Care Center
140 Beach 114th Street
Rockaway Park, New York 11694

Re: Final Audit Report
Audit #: 15-2795
Provider ID #: [redacted]

Dear [redacted]:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Promenade Rehabilitation and Health Care Center (Provider).

In accordance with Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York Section 517.6, the attached Final Audit Report represents the final determination on the issues found during OMIG's audit.

After considering the information provided in multiple phone and email communications with the Provider, the findings and interest in the October 13, 2015 Draft Audit Report have been reduced from $21,211.60 to $17,195.06 in this Final Audit Report. A detailed explanation of the findings is included in this final report.

If you have any questions or comments concerning this report, please contact [redacted]. Please refer to audit number 15-2795 in all correspondence.

Sincerely,

[redacted]
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachments
Certified Mail # [redacted]
Return Receipt Requested

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Background, Objective, and Audit Scope

Background

The New York State Department of Health (DOH) is the single state agency responsible for the administration of the Medicaid program. As part of its responsibility as an independent entity within DOH, the Office of the Medicaid Inspector General (OMIG) conducts audits and reviews of various providers of Medicaid reimbursable services, equipment, and supplies. These audits and reviews are directed at assessing 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 DOH (Titles 10 and 18 of the New York Codes Rules and Regulations), the regulations of the Office of Mental Hygiene (Title 14 of the New York Codes Rules and Regulations), DOH's Medicaid Provider Manuals and *Medicaid Update* publications.

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...."

Objective

The objective of this audit was to assess the Provider's adherence to applicable laws, regulations, rules, and policies governing the New York State Medicaid program and to verify that:

- the Provider had a vacancy rate of no more than five percent on the day of the resident's temporary leave from the facility;
- the Provider's Medicaid recipients' bed reserve days were limited to 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; and
- claims for payment were submitted in accordance with applicable rules and requirements.

Audit Scope

An audit of bed reserve payments included in the period beginning January 1, 2012 and ending December 31, 2014 was completed.

Audit Findings

The October 13, 2015 OMIG Draft Audit Report identified $21,211.60 in inappropriate bed reserve payments and applicable interest due from the Provider. After considering the information provided in multiple phone and email communications with the Provider, the OMIG has removed some of the Draft Audit Report's findings as outlined in Attachment I. These reductions reduced the amount owed in the Draft Audit Report from $21,211.60 to $17,195.06 in this Final Audit Report.

In reviewing the monthly periodic census reports (Attachments A-I, A-II) submitted by the Facility in response to the OMIG engagement letter, the OMIG found in-house resident transfers occurring between the Facility's ventilator and geriatric units that were not clearly identified in the monthly census reports. Using the detailed information from the daily periodic census reports Attachment A-III in conjunction with the monthly periodic census reports, the OMIG was able to properly identify the daily transfers and occupancy levels for each specialized unit within the Facility. Attachment A-IV, Geriatric and Vent Census Transfers/Adjustments, reflects daily admission/discharges of ventilator and geriatric patients that were not clearly identified on the monthly periodic census reports.

OMIG utilized the Provider's Geriatric Unit Census Reports (Attachments A-I, B-I) to determine if the Provider billed Medicaid for bed reserve days while operating above a five percent vacancy rate. This audit included bed reserve payments made to the Provider for the period beginning January 1, 2012 and ending December 31, 2014. As a result of this audit, OMIG has determined that the Provider did not comply with §505.9(d) and §504.3 requirements by inappropriately billing 1 geriatric bed reserve day in the amount of $98.31 (Attachments B-I, C-I) to Medicaid while operating above a five percent vacancy rate.

OMIG utilized the Provider's Vent Unit Census Reports (Attachments A-II, B-II) to determine if the Provider billed Medicaid for bed reserve days while operating above a five percent vacancy rate. This audit included bed reserve payments made to the Provider for the period beginning January 1, 2012 and ending December 31, 2014. As a result of this audit, OMIG has determined that the Provider did not comply with §505.9(d) and §504.3 requirements by inappropriately billing 14 vent bed reserve days in the amount of $3,903.80 (Attachments B-II, C-II) to Medicaid while operating above a five percent vacancy rate.

OMIG also reviewed the Medicaid recipient maximum bed reserve billing requirements to determine if the Provider limited each Medicaid recipients' bed reserve billings to 14 days of hospitalization and 10 days of non-hospital (therapeutic) leave of absence in a 12-month period. The audit found that the Provider did not comply with §2808(25) requirements by inappropriately billing 7 geriatric bed reserve days in the amount of $855.79 (Attachments B-I, D-I) and 10 ventilator bed reserve days in the amount of $3,779.10 (Attachments B-II, D-II) when a Medicaid recipients' 14 hospitalization bed reserve day limit was exceeded in a 12-month period.

Additionally, OMIG identified instances where the Provider received payment from the Medicaid program for claims in which the Provider coded the recipient as a resident residing at the facility while the Medicaid program paid an in-patient hospital claim for the same recipient on the same dates of service. For these instances, OMIG determined the appropriateness of the Provider's payments as if the Provider coded the claim as a bed reserve claim since the Provider would be entitled to a bed reserve payment if the Provider's vacancy rate did not exceed 5% at the time the Provider's resident was discharged to the hospital. OMIG found that the Provider did not comply with §505.9(d) and or §504.3 requirements by inappropriately billing 22 geriatric days in the amount of $4,391.38

(Attachments B-I, E-I) and 4 ventilator days in the amount of $2,331.28 (Attachments B-II, E-II to Medicaid when the Provider's vacancy rate exceeded five percent on the day the patient was discharged to the hospital.

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 $773.64 (Attachments F) in this report.

The overpayments identified in this Draft Audit Report were determined by applying the Provider's promulgated rates (Attachment G) at the date this Draft Audit Report was issued. The total combined amount of overpayment is $16,133.30 (Attachment F).

In accordance with 18 NYCRR Section 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. Interest was calculated on the overpayments identified in this Draft Audit Report from the date of each overpayment through the date of the Draft Audit Report preparation, September 15, 2015 using the Federal Reserve Prime Rate (Attachment H). For the overpayments identified in this audit, OMIG has determined that accrued interest of $1,061.76 (Attachment F) is now owed.

Based on this determination, the total proposed amount due to DOH, as defined in 18 NYCRR Section 518.1, is $17,195.06 (Attachment F), inclusive of interest.

Repayment Options

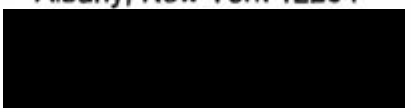
In accordance with 18 NYCRR Part 518, which regulates the collection of overpayments, your repayment options are described below.

Option #1: Make a full payment by check or money order within 20 days of the date of this Final Audit Report. The check should be made payable to the **New York State Department of Health** with the audit number included, and be sent with the attached remittance advice to:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
Albany, New York 12237

Option #2: Enter into a repayment agreement with OMIG. If your repayment terms exceed 90 days from the date of this Final Audit Report, recoveries of amounts due are subject to interest charges at the Prime Rate plus two percent (2%). If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, 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. 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 New York 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:

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



Hearing Rights

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. 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 the Provider wishes to request a hearing, the request must be submitted in writing to:

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

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

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

For a full listing of hearing rights please see 18 NYCRR Part 519.

Contact Information

Office Address:

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

Mission

The mission of the Office of the Medicaid Inspector General is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high quality patient care.

Vision

To be the national leader in promoting and protecting the integrity of the Medicaid program.

Office of the
Medicaid Inspector
General

REMITTANCE ADVICE

Promenade Rehabilitation and Health Care Center
140 Beach 114th Street
Rockaway Park, New York 11694

Provider ID #: [redacted]

Audit #: 15-2795

Audit Type
- ☐ **Managed Care**
- ☐ **Fee-for-Service**
- ☒ **Rate**

Amount Due: $17,195.06

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 the check to:

[redacted]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #15-2795
Albany, New York 12237