



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

THOMAS R. MEYER
Acting Medicaid Inspector General

February 11, 2015

[REDACTED]
Waterview Nursing Care Center
119-15 27th Avenue
Flushing, New York 11354

Re: Medicaid Rate Audit #11-3801
NPI Number: [REDACTED]
Provider Number: [REDACTED]

Dear [REDACTED]:

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Waterview Nursing Care Center's (the "Facility") Medicaid rates for the rate period January 1, 2006 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft audit report.

Since you did not respond to our draft audit report dated November 18, 2014, the findings in the final audit report remain identical to 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 \$121,768. 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 #11-3801
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
Phone #: [REDACTED]
Fax #: [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] at [REDACTED] or through email at [REDACTED]. Please refer to audit number 11-3801 in all correspondence.

Sincerely,

[REDACTED]

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

Enclosures:

- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Property Expense Disallowances/(Allowances)
- EXHIBIT IV - Return On and Return Of Property Equity Disallowances

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Waterview Nursing Care Center
119-15 27th Avenue
Flushing, New York 11354

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

AUDIT #11-3801

AMOUNT DUE: \$121,768

AUDIT	[] PROVIDER
TYPE	[X] RATE
	[] PART B
	[] 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 #11-3801
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

WATERVIEW NURSING CARE CENTER - AUDIT #11-3801
RATE PERIODS JANUARY 1, 2006 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>
01/01/06 - 01/31/06	\$214.28	\$214.06	\$0.22	4,745	\$ 1,044
02/01/06 - 03/31/06	214.22	214.00	0.22	9,318	2,050
04/01/06 - 04/30/06	213.74	213.52	0.22	4,821	1,061
05/01/06 - 07/31/06	214.78	214.56	0.22	14,959	3,291
08/01/06 - 10/31/06	212.91	212.69	0.22	15,262	3,358
11/01/06 - 12/31/06	212.61	212.39	0.22	10,130	2,229
01/01/07 - 03/31/07	217.96	217.06	0.90	14,376	12,938
04/01/07 - 04/30/07	216.74	215.84	0.90	4,748	4,273
05/01/07 - 06/30/07	217.85	216.86	0.99	9,779	9,681
07/01/07 - 12/31/07	216.04	215.05	0.99	27,808	27,530
01/01/08 - 03/31/08	220.70	219.72	0.98	14,010	13,730
04/01/08 - 06/30/08	216.44	215.46	0.98	13,680	13,406
07/01/08 - 12/31/08	220.79	219.81	0.98	27,732	27,177
TOTAL MEDICAID OVERPAYMENT					<u>\$ 121,768</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 above.

WATERVIEW NURSING CARE CENTER - AUDIT #11-3801
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 89 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>
01/01/06 - 01/31/06	\$215.45
02/01/06 - 03/31/06	215.39
04/01/06 - 04/30/06	214.91
05/01/06 - 07/31/06	215.98
08/01/06 - 10/31/06	214.08
11/01/06 - 12/31/06	213.78
01/01/07 - 03/31/07	219.16
04/01/07 - 04/30/07	217.94
05/01/07 - 06/30/07	219.05
07/01/07 - 12/31/07	217.24
01/01/08 - 03/31/08	221.91
04/01/08 - 06/30/08	217.65
07/01/08 - 12/31/08	222.01

* 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.

WATERVIEW NURSING CARE CENTER - AUDIT #11-3801
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	COST CTR.	RATE PERIODS			
		01/01/06-12/31/06	01/01/07-04/30/07	05/01/07-12/31/07	01/01/08-12/31/08
Property Expense Allowed per HE-12B		\$ 539,780	\$ 734,893	\$ 734,893	\$ 833,817
Less Disallowances/(Allowances):					

1. RETURN ON/OF EQUITY DISALLOWANCES

A proprietary facility is entitled to return of equity and return on equity for capital invested for the necessary and proper operation for patient care activities. The audited accumulated real property reimbursement varied from the promulgated reimbursement. Consequently, disallowances were necessary. (Refer to Exhibit IV)

Regulation: 10 NYCRR Section 86-2.21

Ret. On Equity	003		2,691	2,691	
Ret. On Equity	001				857
Ret. Of Equity	001		36,619	36,619	36,619

2. RENTAL EXPENSE DISALLOWANCES

Costs not related to patient care are costs that are not appropriate or necessary for patient care in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. Auto rental costs pertaining to automobiles in which usage logs were not available were disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2102.3, 2105.9, 2300 & 2304

Rent A	006	8,811			
Rent C	006		12,081	12,081	13,772

3. AUTO INSURANCE DISALLOWANCES

Costs not related to patient care are costs that are not appropriate or necessary for patient care in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. Auto insurance costs pertaining to automobiles in which usage logs were not available were disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2102.3, 2105.9, 2300 & 2304

Auto Ins.	006	6,119	7,481	7,481	5,582
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WATERVIEW NURSING CARE CENTER - AUDIT #11-3801
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

<u>DESCRIPTION</u>	<u>COST</u> <u>CTR.</u>	<u>RATE PERIODS</u>			
		<u>01/01/06-</u> <u>12/31/06</u>	<u>01/01/07-</u> <u>04/30/07</u>	<u>05/01/07-</u> <u>12/31/07</u>	<u>01/01/08-</u> <u>12/31/08</u>
4. SALES TAX EXPENSE DISALLOWANCE					
Certain products and services associated with energy sources provided to long-term care facilities are exempt from New York State sales tax if the facilities are considered to be residential. Taxes for which there is an exemption available are not allowable for reimbursement purposes. Consequently, disallowances are necessary. Regulations: 10 NYCRR Section 86-2.17(a), TSB-A-90(60)S, Sales and Use-Rate of Tax-Residential Energy Sources-Long Term Treatment Facilities and PRM-1 Section 2122.2D	Sales Tax 005				7,615
Total Disallowances/(Allowances)		\$ 14,930	\$ 58,872	\$ 58,872	\$ 64,445
TOTAL AUDITED PROPERTY EXPENSE		\$ 524,850	\$ 676,021	\$ 676,021	\$ 769,372

WATERVIEW NURSING CARE CENTER - AUDIT #11-3801
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES

<u>Return of Equity Calculation</u>	RATE PERIODS	
	<u>2007</u>	<u>2008</u>
Real Property Historical Cost per HE-	\$ 2,446,424	\$ 2,590,450
Audit Disallowances/(Allowances)	-	-
Audited Historical Cost	2,446,424	2,590,450
Less: Accumulated Reimbursement	<u>2,225,237</u>	<u>2,335,831</u>
Audited Net Equity	221,187	254,619
Remaining Useful Life	<u>2</u>	<u>1</u>
Audited Return of Equity	110,594	254,619
Promulgated Return of Equity	<u>147,213</u>	<u>291,238</u>
Disallowance/(Allowance)	<u><u>\$ 36,619</u></u>	<u><u>\$ 36,619</u></u>
<u>Return on Equity Calculation</u>		
Audited Net Equity	\$ 221,187	\$ 254,619
Less: ½ Current Return of Equity	<u>55,297</u>	<u>127,310</u>
Audited Net Investment	165,890	127,309
Rate of Return	<u>4.90%</u>	<u>4.68%</u>
Audited Return on Equity	8,129	5,958
Promulgated Return on Equity	<u>10,820</u>	<u>6,815</u>
Disallowance/(Allowance)	<u><u>\$ 2,691</u></u>	<u><u>\$ 857</u></u>