



Office of the
Medicaid Inspector
General

THOMAS R. MEYER
Acting Medicaid Inspector General

Bed Reserve Audit

Final Audit Report

Audit #: 14-3355

Horizon Care Center

formally known as Ocean Gardens NF Inc.

Provider ID #: [REDACTED]



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

THOMAS R. MEYER
Acting Medicaid Inspector General

February 23, 2015

[REDACTED]
Horizon Care Center
64-11 Beach Channel Drive
Arverne, New York 11692

Re: Final Audit Report
Audit #: 14-3355
Provider ID #: [REDACTED]

Dear [REDACTED]:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Horizon Care Center (Provider) formally known as *Ocean Gardens NF Inc.*

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 having a January 5, 2015 phone conversation with the Provider and reviewing the Provider December 29, 2015 response (Attachment A) to the OMIG's December 1, 2014 Draft Report, the findings in this Final Audit Report remain unchanged to those cited in the Draft Audit Report. The total amount due is \$34,020.32, inclusive of interest. A detailed explanation of the findings is included in this Final Audit Report.

If you have any questions or comments concerning this report, please contact [REDACTED] at [REDACTED] or through email at [REDACTED]. Please refer to audit number 14-3355 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 July 1, 2010 and ending June 30, 2012 was completed.

Audit Findings

The Providers December 29, 2014 response (Attachment A) to OMIG's December 1, 2014 Draft Audit Report contained a statement by the Provider that indicated that the audited cash assessment recoveries should not be included in the Final Audit Report because the Provider believed that there would be no available mechanism for the facility to receive reimbursement for audited cash assessment recoveries. In a January 5, 2015 phone conference between the Provider and OMIG, the OMIG provided information regarding reimbursement of cash assessment recoveries associated with bed reserve audits. At the conclusion of the phone conference, the Provider agreed with the audit findings; therefore, the overpayments identified in this Final Audit Report remain unchanged from those cited in the Draft Audit Report.

OMIG utilized the Provider's Geriatric Unit Census Reports (Attachment B) 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 July 1, 2010 and ending June 30, 2012. 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 112 geriatric bed reserve days in the amount of \$18,174.66 (Attachments C, D) 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 67 bed reserve days in the amount of \$10,982.28 (Attachments C, E) when a Medicaid recipients' 14 hospitalization bed reserve day limit was exceeded in a 12-month period.

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 \$1,684.61 (Attachment 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 \$30,841.55 (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, October 31, 2014 using the Federal Reserve Prime Rate (Attachment H). For the overpayments identified in this audit, OMIG has determined that accrued interest of \$3,178.77 (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 \$34,020.32 (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:

[REDACTED]
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 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
Phone #: [REDACTED]
Fax #: [REDACTED]

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 within 60 days of the date of this notice 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]

At the hearing you have the right to:

- a) Be represented by an attorney or other representative, or to represent yourself;
- b) Present witnesses and written and/or oral evidence to explain why the action taken is wrong;
- c) Cross examine witnesses of DOH and/or OMIG; and
- d) Have an interpreter if you do not speak English or are deaf.

Contact Information

[REDACTED], Senior Auditor
[REDACTED]

[REDACTED], Audit Supervisor
[REDACTED]

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

Horizon Care Center
64-11 Beach Channel Drive
Arverne, New York 11692

Provider ID #: [REDACTED]

Audit #: 14-3355

Amount Due: \$34,020.32

Audit
Type

- Managed Care
 Fee-for-Service
 Rate

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, B.A.M.
GNARESP Corning Tower, Room 2739
File #14-3355
Albany, New York 12237-0016