NEW YORK STATE | Office of the Medicaid Inspector General

DENNIS ROSEN
Medicaid Inspector General

Bed Reserve Audit

Final Audit Report
Audit #: 15-2803

Samaritan Keep Nursing Home

Provider ID #: [redacted]

NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

January 27, 2016

[redacted]
Samaritan Keep Nursing Home Inc.
133 Pratt Street
Watertown, New York 13601

Re: Final Audit Report
Audit #: 15-2803
Provider ID #: [redacted]

Dear [redacted]:

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Samaritan Keep Nursing Home Inc. (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.

Since the Provider did not respond to OMIG's November 19, 2015, Draft Audit Report, the overpayments identified in this Final Audit Report remain unchanged from those cited in the Draft Audit Report. However, the OMIG reduced overpayments related to the cash receipt assessment payments and increased the skilled nursing home rates because of recent promulgated skilled nursing home rate (Attachment H) changes that occurred between the Draft Audit Report and the Final Audit Report issuance. The total amount due reflective of recent rate changes is $41,735.71, inclusive of interest of which $5,078.40 in Medicaid overpayments has been voided since the Audit Engagement Letter issuance resulting in net amount $36,657.31 in Medicaid overpayments and interest as detailed in the attached Final Audit Report.

If you have any questions or comments concerning this report, please contact [redacted]. Please refer to audit number 15-2803 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

OMIG issued a Draft Audit Report to the Provider on November 19, 2015 that identified $36,814.22 in Medicaid overpayments. Since the Provider did not respond to OMIG's November 19, 2015, Draft Audit Report, the overpayments identified in this Final Audit Report remain unchanged from those cited in the Draft Audit Report. However, the OMIG reduced overpayments related to the cash receipt assessment payments and increased the skilled nursing home rates because of recent promulgated skilled nursing home rate (Attachment H) changes that occurred between the Draft Audit Report and the Final Audit Report issuance. The total amount due reflective of recent rate changes is $41,735.71, inclusive of interest of which $5,078.40 in Medicaid overpayments has been voided since the Audit Engagement Letter issuance resulting in net amount $36,657.31 in Medicaid overpayments and interest as detailed below.

OMIG utilized the Provider's Geriatric Unit Census Reports (Attachments A, 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 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 15 geriatric bed reserve days in the amount of $1,164.02 (Attachments B, C) to Medicaid while operating above a five percent vacancy rate. Since the date of the Audit Engagement Letter issuance, the Facility has voided 11 geriatric bed reserve days in the amount $850.74 (Attachment J-I) of the identified disallowed claims.

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 8 bed reserve days in the amount of $702.97 (Attachments B, D) when a Medicaid recipients' 14 hospitalization bed reserve day limit was exceeded in a 12-month period.

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 reviewed 420 geriatric days in which the Provider 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. OMIG found that the Provider did not comply with §505.9(d) and or §504.3 requirements by inappropriately billing 420 geriatric days in the amount of $31,837.07 (Attachments B, E) to Medicaid. Since the date of the Audit Engagement Letter issuance, the Facility has voided 31 geriatric days in the amount of $4,227.66 (Attachment J-II) of the identified disallowed claims.

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 and the recipient's yearly hospital bed reserve days exceeded 14 days in a calendar year. Since the recipient's 14 hospital bed reserve day limited was exceeded in a calendar year the recipient would need to be disallowed for payment regardless of census vacancy requirements.

OMIG found that Provider did not comply with §505.9(d), §504.3 and §2808(25) requirements by inappropriately billing 25 geriatric bed reserve days in the amount of $3,971.57 (Attachments B, F) 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. In preparing the final report the OMIG has adjusted/reduced the amount owed related to the cash assessment to $1,176.56 (Attachment G).

The overpayments identified in this Final Audit Report were determined by applying the Provider's promulgated rates (Attachment H) at the date this Final Audit Report was issued. The total combined amount of overpayment is $33,784.57 (Attachment G).

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 Final Audit Report from the date of each overpayment through the date of the Draft Audit Report preparation, September 30, 2015 using the Federal Reserve Prime Rate (Attachment I). For the overpayments identified in this audit, OMIG has determined that accrued interest of $2,872.74 (Attachment G) is now owed.

Based on this determination, the total amount due to DOH, as defined in 18 NYCRR Section 518.1, is $36,657.31 (Attachment G), 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.

NEW YORK STATE | Office of the Medicaid Inspector General

REMITTANCE ADVICE

[redacted]
Samaritan Keep Nursing Home Inc.
133 Pratt Street
Watertown, New York 13601

Provider ID #: [redacted]

Audit #: 15-2803

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

Amount Due: $36,657.31

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 #15-2803
Albany, New York 12237