



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

July 3, 2014

[REDACTED]  
Eastchester Rehabilitation & Health Care Center  
2700 Eastchester Road  
Bronx, New York 10469

Re: Medicaid PRI Audit #11-3439  
NPI Number: [REDACTED]  
Provider Number: [REDACTED]

Dear [REDACTED]

This is the final audit report of findings with regard to the Office of the Medicaid Inspector General's ("OMIG") Patient Review Instruments ("PRI") audit of Eastchester Rehabilitation & Health Care Center ("Facility") for the audit period July 1, 2005 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this final audit report represents the OMIG's final determination on issues raised in the revised draft audit report.

In your response to the revised draft audit report dated February 20, 2014, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A-1) and the report has been either revised accordingly and/or amended to address your comments (see Attachment A-2). Consideration of your comments resulted in an overall reduction of \$147,302 to the total Medicaid overpayment shown in the revised draft audit report.

The findings applicable to the November 1, 2006 through March 31, 2009 Medicaid rates resulted in a Medicaid overpayment of \$963,875 as detailed in Attachment A-2. 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 amount will be resolved with the Facility by the OMIG Bureau of Collections Management. The finding explanation, regulatory reference, and applicable adjustment can be found in the exhibits following Attachment A-2.

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 #11-3439  
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 the 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  
[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 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

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 regarding the above, please contact [REDACTED] or through email at [REDACTED]

Sincerely,

[REDACTED]  
Division of Medicaid Audit  
Office of the Medicaid Inspector General

Attachments:

ATTACHMENT A-1 – Analysis of Provider Response  
ATTACHMENT A-2 - Calculation of Medicaid Overpayment  
ATTACHMENT B - Change in RUG Counts for PRIs submitted on November 22, 2006  
ATTACHMENT C - Detailed Findings by Sample Number  
ATTACHMENT D - Detailed Findings by Disallowance

CERTIFIED MAIL [REDACTED]  
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**

[REDACTED]  
Eastchester Rehabilitation & Health  
Care Center  
2700 Eastchester Road  
Bronx, New York 10469

**PROVIDER ID** [REDACTED]

AUDIT #11-3439

**AMOUNT DUE:** \$963,875

AUDIT	<input type="checkbox"/>	PROVIDER
	<input checked="" type="checkbox"/>	RATE
TYPE	<input type="checkbox"/>	PART B
	<input type="checkbox"/>	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 #11-3439  
Albany, New York 12237-0048

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

[REDACTED]

**CORRECT PROVIDER NUMBER**

## EASTCHESTER REHABILITATION & HEALTH CARE CENTER

### AUDIT #11-3439

All OMIG disallowances were accepted by the Facility except for those shown below. The following details the disposition of final report disallowances after consideration of the Facility's revised draft audit report response comments.

**Based on information and documentation provided by the facility, the following disallowances were reversed and not included in the Final Report:**

**Sample # 20** - Disallow #27, Physical Therapy

**Sample # 64** - Disallow #22, Level 5 Toileting

**Sample # 93** - Disallow #22, Level 5 Toileting

**Sample # 99** - Disallow #22, Level 5 Toileting

**Sample # 111** - Disallow #22, Level 5 Toileting

**Sample # 113** - Disallow #22, Level 5 Toileting

**Sample # 117** - Disallow #22, Level 5 Toileting

**Sample # 125** - Disallow #22, Level 5 Toileting

**Based on information and documentation provided by the facility, the following disallowances were not reversed and are included in the Final Report:**

**Sample #113** - #30, Condition listed as needing the most nursing time not supported by documentation.

Facility Comment: The facility coded 342.9 as the resident's diagnosis. The facility stated that the physical limitations necessitating assistance with her care required the most nursing time.

OMIG Response: A review of the medical record (both scanned documentation the facility provided when we were on site and the additional documentation sent in to respond to the revised draft report) indicates the resident requires verbal cues and oversight; there is no hand-on care provided. The physician made a note on 11/1/06 that the resident has a mild CVA since admission. The nurses' note on 11/1/06 states requires assistance with ADL's related to hemiparesis. Physician notes during the ATP address cholesterol levels and behavior issues noted in nurses notes.

Per the PRI instruction sheet "*The primary problem is a reflection of nursing time and should be exemplified in the nursing notes.*" This was not reflected in the chart review.

**Sample #117 - #30,** Condition listed as needing the most nursing time not supported by documentation.

Facility Comment: The facility coded 342.9 as the resident's diagnosis. The facility stated that the physical limitations necessitating assistance with her care required the most nursing time.

OMIG Response: A review of the medical record shows upon admission the CVA was code 438 (late effects). Nurses' note of 11/1/06 indicates extensive assistance with ADL's due to CVA with Rt. Hemiparesis. The completed PRI indicates resident is independent (a 1) in eating and transfer, and a level 5 for toileting (is on a toileting program, although the nurses note of 11/1/06 states resident is continent of bladder.

Per the PRI instruction sheet "*The primary problem is a reflection of nursing time and should be exemplified in the nursing notes.*" This was not reflected in the chart review.

**Sample #168 - #30,** Condition listed as needing the most nursing time not supported by documentation.

Facility Comment: The facility coded 342.9 as the resident's diagnosis. The facility stated that the physical limitations necessitating assistance with her care required the most nursing time.

OMIG Response: A review of the medical record shows the resident requires oversight and verbal cuing for ADL's. The physician progress notes do not indicate a diagnosis of CVA, nor is physical weakness addressed in these notes. The physician refers to the medication order sheets for diagnosis' which lists cardiomyopathy carotid stenosis CVA (L) hemiparesis (L) facial. The nurses' notes of 10/31/06 states internment supervision with ADL's due to R hemiparesis.

Per the PRI instruction sheet "*The primary problem is a reflection of nursing time and should be exemplified in the nursing notes.*" This was not reflected in the chart review.

**Sample #171 - #30,** Condition listed as needing the most nursing time not supported by documentation.

Facility Comment: The facility coded 342.9 as the resident's diagnosis. The facility stated that the physical limitations necessitating assistance with her care required the most nursing time.

OMIG Response: A medical record review does not contain any nurses' notes for the ATP to support a CVA with hemiparesis diagnosis. The physician progress notes allude to a CVA, but do not address it. The PRI submitted indicates resident is independent in all ADL's.

Per the PRI instruction sheet "*The primary problem is a reflection of nursing time and should be exemplified in the nursing notes.*" This was not reflected in the chart review.

**Sample #172 - #26,** Documentation does not support visual, auditory, or tactile hallucinations once per week during the last four weeks.

Facility Comment: The facility states that the documentation provided by the psychiatrist and the plan of care support the coding of hallucinations.

OMIG Response: Although the psychotropic and behavior monitoring sheet were submitted

for review, they do not meet the qualifier listed in the PRI instructions.

*Per the PRI instruction "There must be appropriate notes on the chart describing each occurrence of the behavior, the date and time, the intervention and the results of the intervention. Behavior must occur at least once per week and be unpredictable. The psychiatric assessment must address the specific problem behavior and the behavior must still be exhibited by the resident. There must be an active treatment plan currently in use."*

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 EASTCHESTERREHABILITATION & HEALTH CARE CENTER  
 AUDIT #11-3439  
 CALCULATION OF MEDICAID OVERPAYMENT

<u>Service</u>	<u>Effective Period</u>	<u>Part B Non-Elig.</u>		<u>Part B-Elig</u>		<u>Difference</u>	<u>Medicaid Days</u>	<u>Medicaid Impact</u>
		<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>			
NF	11/01/06 - 12/31/06	232.53	225.17	232.52	225.16	7.36	8647	\$ 63,642
NF	01/01/07 - 03/31/07	239.84	232.32	239.83	232.31	7.52	12058	90,676
NF	04/01/07 - 06/30/07	238.47	231.00	238.46	230.99	7.47	12247	91,485
NF	07/01/07 - 08/31/07	240.18	232.71	240.17	232.70	7.47	8845	66,072
NF	09/01/07 - 12/31/07	240.18	232.71	240.17	232.70	7.47	18759	140,130
NF	01/01/08 - 03/31/08	245.81	238.18	245.80	238.17	7.63	14205	108,384
NF	04/01/08 - 06/30/08	242.29	234.72	242.28	234.71	7.57	13579	102,793
NF	07/01/08 - 12/31/08	245.33	237.76	245.32	237.75	7.57	26582	201,226
NF	01/01/09 - 03/31/09	248.50	240.72	248.49	240.71	7.78	12785	99,467
TOTAL MEDICAID OVERPAYMENT								<u>\$ 963,875</u>

**NOTE:** Impact of the Dementia Per Diem Calculation handled as per diem disallowance on Schedule VII

OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 EASTCHESTER REHABILITATION AND HEALTH CARE CENTER  
 CHANGE IN RUG CATEGORIES  
 NOVEMBER 22, 2006

RUG CATEGORY	CHANGE IN RUG CATEGORY			ADJUSTED
	REPORTED	INCREASE	DECREASE	
BA	1		1	0
BB	0			0
BC	0			0
CA	5		4	1
CB	12		1	11
CC	12		1	11
CD	18		5	13
PA	16	11		27
PB	8	2		10
PC	26	2		28
PD	8	1		9
PE	11		1	10
RA	7		1	6
RB	33		2	31
SA	1			1
SB	17			17
TOTAL	175	16	16	175

## Dementia Patient Per Diem Calculation

CA	1		1	0
BA	1		1	0
PA	9		5	4
PB	7		4	3
TOTAL	18	0	11	7















OFFICE OF THE MEDICAID INSPECTOR GENERAL  
 EASTCHESTER REHABILITATION & HEALTH CARE CENTER  
 AUDIT# 11-3439  
 DISALLOWANCE BY SAMPLE

Sample#	DOB	Name	PR	Date	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS												
									Disallow Primary Medical Problem	Disallow Toileting	Disallow Dementia Add-on	Disallow Eating	Disallow Transfer	Disallow PT Level	Disallow Physician Visits	Disallow Decubitis Level	Disallow Oxygen	Disallow HIV Infection	Disallow Hallucinations		
176			S	11/15/2006	PA	PA	0.55	0.55													
177			C	11/15/2006	PA	PA	0.55	0.55													
178			H	11/16/2006	PA	PA	0.55	0.55			1										
179			W	11/19/2006	PA	PA	0.55	0.55													
180			B	11/19/2006	PA	PA	0.55	0.55													
181			C	11/19/2006	PA	PA	0.55	0.55			1										
182			R	11/19/2006	PA	PA	0.55	0.55			1										
183			I	11/22/2006	PA	PA	0.55	0.55													
184			V	11/22/2006	PA	PA	0.55	0.55													
185			J	11/22/2006	PA	PA	0.55	0.55													
186			O	11/22/2006	PA	PA	0.55	0.55													
187			T	11/22/2006	PA	PA	0.55	0.55													
188			F	11/22/2006	PA	PA	0.55	0.55													
<b>Totals</b>									<b>28</b>	<b>31</b>	<b>12</b>	<b>8</b>	<b>6</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>		

**EASTCHESTER REHABILITATION & HEALTH CARE CENTER  
DETAILED FINDINGS**

**PRI FINDINGS****Sample Selection****Decubitus Level Disallowed**

The PRI instructions/clarifications state, *"For a patient to be cited as level 4, documentation by a licensed clinician must exist which describes the following three components: 1. A description of the patient's decubitus, 2. Circumstance or medical condition which led to the decubitus, 3. An active treatment plan."*

In addition, *"necrotic breakdown of skin and subcutaneous tissue which may involve muscle, fascia and bone"* must be documented.

*10 NYCRR Section 86-2.30 (II) 16*

In 2 instances, documentation did not support a description of the wound as decubitus level 2, 3, or 4. 110, 153

In 2 instances, documentation did not support circumstance or medical condition which led to the decubitus. 110, 153

In 2 instances, documentation did not support an active treatment plan. 110, 153

In 2 instances, documentation did not support a necrosis qualifier. 110, 153

**HIV Infection**

The PRI instructions/clarifications define HIV infection symptomatic as *"includes AIDS and HIV related illnesses. The patient must be tested AND have a documented positive finding AND the patient has symptoms."*

*10 NYCRR Section 86-2.30 (II) 17-I*

In 1 instance, the medical record did not support the symptomatic HIV infection. 101

**Oxygen - (Daily)**

PRI instructions/clarifications state *"For medical treatments having a daily frequency requirement, treatments must be provided every day of the four week period."*

*10 NYCRR Section 86-2.30 (II) 18C*

In 1 instance, documentation did not support the daily frequency requirement for oxygen. 66

**Eating**

PRI instructions/clarifications state:

*10 NYCRR Section 86-2.30 (III) 19*

**Level 2 eating** *"requires intermittent supervision and/or minimal physical assistance with minor parts of eating such as cutting food, buttering bread or opening milk cartons."*

In 1 instance, documentation did not support intermittent supervision and/or minor physical assistance with eating. 81

**Level 3 eating** continual help *"means that the patient requires a staff person's continual presence and help for reasons such as: patient tends to choke, has a swallowing problem, is learning to feed self, or is quite confused and forgets to eat."*

In 4 instances, documentation did not support continual help with eating. 1, 13, 29, 122

**Level 4 eating** is *"totally fed by hand: patient does not manually participate."*

In 2 instances, documentation did not support that the resident was totally fed by hand. 110, 132

**Level 5 eating** is *"tube or parenteral feeding for primary intake of food."*

In 1 instance, documentation did not support tube or parenteral feeding is primary intake for food. 66

**Transfer**

The PRI instructions/clarifications state:

*10 NYCRR Section 86-2.30 (III) 21*

**Level 2 transfer** intermittent assistance; a *“staff person does not have to be present during the entire activity, nor does the help have to be on a one-to-one basis.”*

In 1 instance, documentation did not support intermittent assistance with transfers. 81

**Level 3 transfer** continuous assistance; *“requires one person to provide constant guidance, steadiness and/or physical assistance. Patient may participate in transfer.”*

In 2 instances, documentation did not support constant guidance or physical assistance in transfer. 13, 153

**Level 4 transfer** *“requires two people to provide constant supervision and/or physically lift. May need lifting equipment. Documentation must support a logical medical reason why the patient required two people to transfer.”*

In 3 instances, documentation did not support the resident; required two people or the use of lifting equipment to transfer. 1, 66, 110

In 3 instances, documentation did not support a logical medical reason why the patient required two people to transfer. 1, 66, 110

**Toileting**

The PRI instructions/clarifications state:

*10 NYCRR Section 86-2.30 (III) 22*

**Level 2 toileting** resident is *“continent or incontinent of bowel and bladder “but a “staff person does not have to be present during the entire activity, nor does the help have to be on a one-to-one basis.”*

In 1 instance, documentation did not support intermittent assistance. 81

**Level 3 toileting** resident is *“continent of bowel and bladder. Requires constant supervision and/or*

*physical assistance with major/all parts of the task, including appliances (i.e. colostomy, ileostomy, urinary catheter)."*

In 3 instances, documentation did not support constant supervision and/or physical assistance with toileting.

1, 13, 153

**Level 4 toileting** resident is *"incontinent 60% or more of the time; does not use a bathroom. The patient may be bed bound or mentally confused to the extent that a scheduled toileting program is not beneficial."*

In 7 instances, documentation did not support incontinence 60% of the time.

3, 50, 55, 56, 60, 66, 110

**Level 5 toileting** resident is *"incontinent of bowel and/or bladder but is taken to a bathroom every two to four hours during the day and as needed at night."* Additionally, PRI clarifications state that *"the resident's care plan must establish a toileting assistance program that is based on an assessment of the resident's needs. The assessment should establish the needs of the resident which lead to the development of the program."* To meet Toileting Level 5 there must be a *"care plan established for the resident based on an assessment."* The toileting schedule must include *"the name or initials of the health care worker performing the toileting assistance and the specific time the toileting assistance was provided must be present in each instance assistance is provided."*

In 20 instances, documentation did not support an individualized toileting schedule, the specific time the resident was toileted, the toileting schedule contained blanks, and/or or the toileting schedule contained intervals greater than four hours.

7, 16, 22, 67, 73, 78, 88, 90, 97, 108, 109, 112, 130, 131, 133, 136, 143, 144, 147, 148

## **Hallucinations**

The PRI instructions/clarifications define hallucinations as *"experienced at least once per week during the last four weeks, visual, auditory, or tactile perceptions that have no basis in external reality."*

Additionally, to qualify a patient as Level 1 hallucinations an *"active treatment plan for the behavioral problem must be in current use"* and a *"psychiatric assessment by a recognized*

*professional with psychiatric training/education must exist to support the fact that the patient has a severe behavioral problem.”*

10 NYCRR Section 86-2.30 (IV) 26

In 1 instance, documentation did not support visual, auditory, or tactile hallucinations once per week for the last four weeks. 172

**Physical Therapy**

PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (V) 27A

PRI instructions/clarifications state *“there must be an order for restorative therapy.”*

In 3 instances, documentation did not support a physician, nurse practitioner or appropriately cosigned physician assistant order for restorative therapy. 1, 13, 81

In order for therapy to qualify as restorative *“there is positive potential for improved functional status within a short and predictable period of time”*... The qualifier for maintenance therapy is *“to maintain and/or retard deterioration of current functional/ADL status.”*

In 3 instances, documentation did not support the positive potential for improvement within a short and/or predictable period of time. 1, 13, 81

PRI instructions/clarifications also state *“in order for therapy to qualify as restorative, treatment is provided at least five days per week and 2.5 hours per week.”*

In 5 instances, documentation did not support treatment five days/ 2.5 hours per week. 1, 5, 13, 76, 81

PRI instructions/clarifications state *“in order for therapy to qualify as restorative the resident must continue to show improvement during treatment.”*

In 3 instances, documentation did not support continued improvement in ADL/functional status through the past 28 days. 1, 13, 81

### Number of Physician Visits

The PRI instructions/clarifications state that allowable physician visits are those in which *“the patient has a medical condition that (1) is unstable and changing or (2) is stable, but there is high risk of instability.”*

10 NYCRR Section 86-2.30 (V) 28

In 5 instances, documentation did not support the number of physician visits claimed were for unstable or potentially unstable conditions.

66, 81, 110, 132, 170

### Primary Medical Problem

The PRI instructions/clarifications state: *“The primary medical problem should be selected based on the condition that has created the most need for nursing time during the past four weeks.”*

10 NYCRR Section 86-2.30 (i) (VI) 30

In 28 instances, documentation did not support that the primary medical problem (ICD-9 code) was based on the condition that created the most need for nursing time.

1, 11, 13, 21, 23, 25, 32, 37, 43, 51, 65, 66, 73, 78, 81, 88, 94, 101, 110, 113, 117, 153, 154, 168, 169, 170, 171, 172

### Dementia Add-on

PRI instructions/clarifications state: *“Facilities to whom the additional amount is paid shall demonstrate and document positive outcomes from the implementation or continuation of programs to improve the care of eligible dementia patients.”*

10 NYCRR Section 86-2.10 (o)

In 12 instances, there was no documentation found in the record of activities that meet these criteria.

159, 161, 162, 165, 166, 167, 172, 173, 175, 178, 181, 182

### RUGS-II Classifications Overturned

In 26 instances, the RUG-II classifications were overturned.

10 NYCRR Section 86-2.11

1, 13, 65, 66, 67, 73, 78, 81, 90, 97, 101, 108, 110, 113, 117, 130, 131, 132, 133, 144, 153, 168, 169, 170, 171, 172