



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

July 26, 2016

[REDACTED]
Hamilton Park Nursing and Rehabilitation Center
(aka Victory Memorial Hospital SNF)
691 92nd Street
Brooklyn, New York 11228

Re: MDS Final Audit Report
Audit #: 13-4821
Provider ID#: [REDACTED]

Dear [REDACTED]

This is the final audit report of findings with regard to the Office of the Medicaid Inspector General's (OMIG) Minimum Data Set (MDS) audit of Hamilton Park Nursing and Rehabilitation Center (aka Victory Memorial Hospital SNF) for the census period ending January 25, 2012. In accordance with 18 NYCRR §517.6, this final audit report represents the OMIG's final determination on issues found during OMIG's review.

We received your response to our draft audit report dated September 23, 2015. Your comments have been considered (see Attachment D) and the findings in the final audit report remain identical to the draft audit report.

The Medicaid overpayment of \$47,040.70 was calculated using the number of Medicaid days paid for the rate period July 1, 2012 through December 31, 2012 and the change in the direct component of your Medicaid rate as calculated by the Department of Health's Bureau of Long Term Care Reimbursement (BLTCR). The calculation of this overpayment is detailed in Attachment A. BLTCR will adjust your Medicaid rates for the relevant rate period to reflect the change in the direct component. The findings explanation, regulatory references, and applicable adjustment can be found in the attachments following Attachment A.

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. 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." 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]

Pursuant to 18 NYCRR §519.18, at the hearing you have the right to:

- (a) request the department to reschedule the hearing (adjournment);
- (b) be represented by an attorney, or other representative, or to represent himself/herself;
- (c) have an interpreter, at no charge, if the appellant does not speak English or is deaf and cannot afford one (the appellant must advise the department prior to the hearing if an interpreter will be needed);
- (d) produce witnesses and present written and/or oral evidence to explain why the action taken was wrong;
- (e) cross-examine witnesses of the department.

Should you have any questions regarding the above, please contact [REDACTED].

[REDACTED]

Division of Medicaid Audit
Office of the Medicaid Inspector General

[REDACTED]

OFFICE OF THE MEDICAID INSPECTOR GENERAL
HAMILTON PARK NURSING AND REHABILITATION CENTER
AUDIT # 13-4821
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAYS	IMPACT
Part B Eligible/Part B D Eligible	\$2.47	17,810	\$43,990.70
Non-Medicare/Part D Eligible	\$2.50	1,220	\$3,050.00
Total			<u>\$47,040.70</u>

*Rounded to nearest 1/100th New York State Department of Health Bureau of Managed Long Term Care Rate Setting / FFS

OFFICE OF THE MEDICAID INSPECTOR GENERAL
HAMILTON PARK NURSING AND REHABILITATION CENTER
AUDIT #13-4821
FINDINGS BY SAMPLE NUMBER

Sample #	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS							
					DISALLOW BED MOBILITY SELF PERFORMANCE	DISALLOW TRANSFER SELF PERFORMANCE	DISALLOW EATING SELF PERFORMANCE	DISALLOW TOILET USE SELF PERFORMANCE	DISALLOW TOILET USE SUPPORT PROVIDED	DISALLOW OCCUPATION THERAPY	DISALLOW PHYSICAL THERAPY	
22	RHB	RHB	1.27	1.27								
23	CC1	CB1	0.98	0.86				1				
24	CC1	CC1	0.98	0.98								
25	RVB	IB1	1.39	0.78					1	1		
26	RHC	RHC	1.40	1.40								
27	PE1	PE1	0.79	0.79	1	1						
28	CA2	CA2	0.84	0.84								
29	RHC	RHC	1.40	1.40								
30	RHC	CB1	1.40	0.86					1	1		
31	RVC	RVC	1.53	1.53								
TOTALS					1	1	2	2	1	3	3	

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
HAMILTON PARK NURSING AND REHABILITATION CENTER
AUDIT #13-4821
MDS DETAILED FINDINGS**

MDS FINDINGS**SAMPLE SELECTION****Functional Status-ADL Self-Performance and Support**

If the provider is unable to produce the supporting documentation for the patient, the service will be disallowed and the Case Mix will be adjusted. A repayment schedule will be developed.

Documentation must indicate an assessment was done to evaluate the need for assistance with activities of daily living (ADL's), altered gait and balance, and decreased range of motion (ROM). MDS 3.0 manual guidelines will be followed when examining the medical records.

*42 CFR §483.20 (b) (xvii)
MDS Manual 3.0 G0100-0900*

Bed Mobility Self-Performance

In 1 instance, documentation did not support resident required total assist every time. 27

Transfer Self-Performance

In 1 instance, documentation did not support resident required total assist every time. 16

Eating Self-Performance

In 2 instances, documentation did not support resident required total assist every time. 8, 27

Toilet Use Self-Performance

In 2 instances, documentation did not support resident required total assist every time. 5, 16

Toilet Use Support Provided

In 1 instance, documentation did not support resident was a 2+ person physical help at least once. 23

Skilled Therapy

If the provider is unable to produce the supporting documentation for the patient, the service will be disallowed and the Case Mix will be adjusted. A repayment schedule will be developed.

The qualified therapist, in conjunction with the physician and nursing staff, is responsible for determining the necessity for and the frequency and duration of the therapy provided to residents. Rehabilitation (i.e., via Speech-Language Services, and Occupational and Physical Therapies) and respiratory, psychological, and recreational therapy helps the residents to attain or maintain their highest level of well-being and improve their quality of life. MDS 3.0 manual guidelines will be followed when reviewing the documentation provided by the facility.

*42 CFR §483.20 (b) (xvii)
MDS 3.0 Manual O0400-0500*

Occupational Therapy

In 3 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 17, 25, 30

Physical Therapy

In 3 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 17, 25, 30

RUGS-II Classifications Overturned

In 4 instances, the RUG classifications were overturned. 17, 23, 25, 30

10 NYCRR §86-2.10, Volume A-2

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
HAMILTON PARK NURSING AND REHABILITATION CENTER
AUDIT #13-4821
ANALYSIS OF PROVIDER RESPONSE**

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

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Sample #17

Based on information and documentation provided by the facility, the following disallowance was not reversed and will be included in the Final Report:

Disallowance O 0400B Occupational Therapy

Disallowance O 0400C Physical Therapy

Facility Comment: Reason for a therapy referral: there was a decline in resident's ability to ambulate and a need for increased assistance from caregivers.

Documentation Submitted by the Facility and Reviewed:

- Summary of response
- Nursing Care Plans
- PT and OT evaluation with MD certification for the services
- PT and OT treatment encounter notes for the ARD
- Service log matrix indicating the minutes provided during the ARD

OMIG Response: The MDS Assessment Reference Date (ARD) is 01/19/12. The 7-day look back period is 01/13/12 – 01/19/12.

The MDS claimed 4 days, 175 minutes of Physical Therapy and 5 days 170 minutes of Occupational Therapy.

The Facility did not provide interdisciplinary documentation relevant to the ARD from the physician and licensed nursing staff which would support the medical need for skilled Occupational and Physical Therapy services. A decline in the resident's functional status could not be determined from physician and nursing disciplines. The progress during the ARD was static and therapy continued for over three months. There was no documented significant change in status.

Documentation provided does not support the MDS Manual, Section O:

- *The qualified therapist, in conjunction with the physician and nursing administration, is responsible for determining the necessity for, and the frequency and duration of the therapy services provided to residents.*

Documentation does not support the MDS Manual's coding instructions for Physical Therapy:

- *Code only medically necessary therapies that occurred after admission/re-admission to the nursing home." 2) "The services must be reasonable and necessary for the treatment of the resident's condition; this includes the requirement that the amount, frequency, and duration of the services must be reasonable.*
- *The services must be provided with the expectation that the condition of the patient will improve materially in a reasonable and predictable period of time and the services must be reasonable and necessary for treatment of the resident's condition.*

Please note, per the MDS manual Chapter 4: Care Area Assessment (CAA) Process and Care Planning, the **completed** MDS must be analyzed and combined with other relevant information to develop and individualized care plan.

Disposition: The draft report finding is unchanged and will be included in the final report.

Sample #23

Based on information and documentation provided by the facility, the following disallowance was not reversed and will be included in the Final Report:

Disallowance G 0110I Toilet Use Support Provided

Facility Comment: The facility did a summary of response which noted that the resident required two people for toilet use.

Documentation Submitted by the Facility and Reviewed:

- Summary of response
- Physician monthly report
- Comprehensive Care Plan
- Physicians orders
- Nursing Accountability record

OMIG Response: The MDS Assessment Reference Date (ARD) is 01/16/12. The 7-day look back period is 01/10/12 – 01/16/12.

The facility provided us with daily and shift by shift documentation of the care provided by the certified nursing assistant. The sheet was titled Activity of Daily Living (ADL) Monitoring. There was an ADL Support Provided Code on the sheet which indicated a 2 meant one person

physical assist, if the resident is assisted by one person. The documentation during the ARD supported a one person for support provided for toilet use.

Per the MDS manual section G:

- *Do **NOT** record the type and level of assistance that the resident "should" be receiving according to the written plan of care. The level of assistance actually provided might be very different from what is indicated in the plan. Record what actually happened.*

Please note, per the MDS manual Chapter 4: Care Area Assessment (CAA) Process and Care Planning, the **completed** MDS must be analyzed and combined with other relevant information to develop and individualized care plan.

Disposition: The draft report finding is unchanged and will be included in the final report.

Sample #25

Based on information and documentation provided by the facility, the following disallowance was not reversed and will be included in the Final Report:

Disallowance O 0400B Occupational Therapy

Disallowance O 0400C Physical Therapy

Facility Comment: Reason for a therapy referral: there was a decline in resident's ability to ambulate and a need for increased assistance from caregivers.

Documentation Submitted by the Facility and Reviewed:

- Summary of response
- Nursing Notes
- MD certified POC of OT and PT
- Progress notes for the ARD
- Treatment encounter notes for the ARD period
- Service log Matrix indicating the minutes provided during the ARD
- Section "O" and "Z" of the MDS

OMIG Response: The MDS Assessment Reference Date (ARD) is 12/04/11. The 7-day look back period is 11/28/11 – 12/04/11.

The MDS claimed 5 days, 255 minutes of Physical Therapy and 5 days 255 minutes of Occupational Therapy.

The Facility documentation provided did not have interdisciplinary documentation relevant to the ARD from the physician and licensed nursing staff to support the medical need for skilled Occupational and Physical Therapy services. A decline in the resident's functional status could not be determined from physician and nursing disciplines. There was no progress during the ARD. There was no documented significant change in status.

Documentation provided does not support the MDS Manual, Section O:

- ***The qualified therapist, in conjunction with the physician and nursing administration, is responsible for determining the necessity for, and the frequency and duration of the therapy services provided to residents.***

Documentation does not support the MDS Manual's coding instructions for Physical Therapy:

- *"Code only medically necessary therapies that occurred after admission/re-admission to the nursing home." 2) "The services must be reasonable and necessary for the treatment of the resident's condition; this includes the requirement that the amount, frequency, and duration of the services must be reasonable."*
- *The services must be provided with the expectation that the condition of the patient will improve materially in a reasonable and predictable period of time and the services must be reasonable and necessary for treatment of the resident's condition."*

Please note, per the MDS manual Chapter 4: Care Area Assessment (CAA) Process and Care Planning, the **completed** MDS must be analyzed and combined with other relevant information to develop and individualized care plan.

Disposition: The draft report finding is unchanged and will be included in the final report.

Sample #30

Based on information and documentation provided by the facility, the following disallowance was not reversed and will be included in the Final Report:

Disallowance O 0400B Occupational Therapy

Disallowance O 0400C Physical Therapy

Facility Comment: Reason for a therapy referral: there was a decline in resident's ability to ambulate and a need for increased assistance from caregivers.

Documentation Submitted by the Facility and Reviewed:

- Summary of response
- PT and OT evaluation with certified POC, recertification and progress notes
- The billing logs included and indicate and confirm the minutes provided for the look back period of ARD 11/08/11

- The initial orders and certified POC by MD indicating that MD was aware of the rehabilitation intervention for patient
- Care plans which identify patient as a fall risk, a risk for skin breakdown, requiring assistance for transfers and ambulation
- Section "O" and "X" of MDS for ARD of 11/08/11

OMIG Response: The MDS Assessment Reference Date (ARD) is 11/08/11. The 7-day look back period is 11/02/11 – 11/08/11.

The MDS claimed 5 days, 220 minutes of Physical Therapy and 5 days 225 minutes of Occupational Therapy.

A review of the medical record indicates the resident was re admitted to the facility on 08/26/11 with a diagnosis of syncope/seizure and started on PT/OT 08/29/11 for generalized muscle weakness. No significant changes in ADL status noted per the physician. Resident remained an extensive assist with transfers, toileting and bed mobility. The resident was discharged from therapy on 11/18/11. Review of the previous MDS dated 09/02/11 indicates no significant improvement occurred in ADL status.

The Facility documentation provided did not have interdisciplinary documentation relevant to the ARD from the physician and licensed nursing staff to support the medical need for skilled Occupational and Physical Therapy services. A decline in the resident's functional status could not be determined from physician and nursing disciplines.

Documentation provided does not support the MDS Manual, Section O:

- *The qualified therapist, in conjunction with the physician and nursing administration, is responsible for determining the necessity for, and the frequency and duration of the therapy services provided to residents.*

Documentation does not support the MDS Manual's coding instructions for Physical Therapy:

- *"Code only medically necessary therapies that occurred after admission/re-admission to the nursing home." 2) "The services must be reasonable and necessary for the treatment of the resident's condition; this includes the requirement that the amount, frequency, and duration of the services must be reasonable."*
- *The services must be provided with the expectation that the condition of the patient will improve materially in a reasonable and predictable period of time and the services must be reasonable and necessary for treatment of the resident's condition."*

Please note, per the MDS manual Chapter 4: Care Area Assessment (CAA) Process and Care Planning, the **completed** MDS must be analyzed and combined with other relevant information to develop and individualized care plan.

Disposition: The draft report finding is unchanged and will be included in the final report.