



Office of the
Medicaid Inspector
General

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

July 21, 2016

[REDACTED]
Forest Hills Care Center
(aka Forest Hills Nursing Home)
71-44 Yellowstone Boulevard
Forest Hills, New York 11375

Re: MDS Final Audit Report
Audit #: 13-4872
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 Forest Hills Care Center (aka Forest Hills Nursing Home) 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 16, 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 \$13,532.77 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:

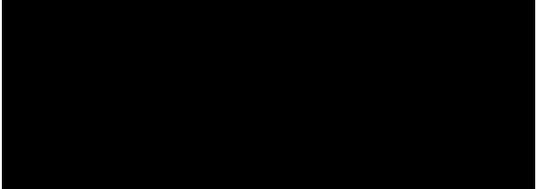
General Counsel
Office of Counsel
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

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]



Division of Medicaid Audit
Office of the Medicaid Inspector General



OFFICE OF THE MEDICAID INSPECTOR GENERAL
FOREST HILLS CARE CENTER
AUDIT # 13-4872
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAYS	IMPACT
Part B Eligible/Part B D Eligible	\$1.21	10,132	\$12,259.72
Non-Medicare/Part D Eligible	\$1.23	1,035	\$1,273.05
Total			<u>\$13,532.77</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
 FOREST HILLS CARE CENTER
 AUDIT #13-4872
 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 TRANSFER SUPPORT PROVIDED	DISALLOW EATING SELF PERFORMANCE	DISALLOW TOILET USE SELF PERFORMANCE	DISALLOW TOILET USE SUPPORT PROVIDED	DISALLOW OCCUPATION THERAPY		
1	CB1	CB1	0.86	0.86									
2	RVC	RVC	1.53	1.53		1		1					
3	RMC	RMC	1.27	1.27									
4	RHC	RVB	1.40	1.39	1	1							
5	PB2	PB2	0.57	0.57									
6	RMC	RMC	1.27	1.27	1	1							
7	IA1	IA1	0.61	0.61									
8	RMX	RMX	1.96	1.96									
9	RMX	RMX	1.96	1.96	1	1		1					
10	RMC	RMC	1.27	1.27				1					
11	PE1	PE1	0.79	0.79	1								
12	RHC	RHC	1.40	1.40									
13	RMC	CB1	1.27	0.86				1		1			1
14	RHC	RHC	1.40	1.40									
15	RMA	RMA	1.17	1.17									
16	IB2	IB2	0.80	0.80				1			1		
17	RHC	RHC	1.40	1.40									
TOTALS						4	4	2	3	7	1	1	

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
FOREST HILLS CARE CENTER
AUDIT #13-4872
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 3 instances, documentation did not support resident required total assist every time. 6, 9, 11

In 1 instance, documentation did not support resident required weight bearing assist three or more times. 4

Transfer Self-Performance

In 3 instances, documentation did not support resident required total assist every time. 2, 6, 9

In 1 instance, documentation did not support resident required weight bearing assist three or more times. 4

Transfer Support Provided

In 1 instance, documentation did not support resident was a 2+ person physical help at least once. 13

In 1 instance, documentation did not support resident was a one (1) person physical help at least once. 16

Eating Self-Performance

In 3 instances, documentation did not support resident required total assist every time. 2, 9, 10

Toilet Use Self-Performance

In 6 instances, documentation did not support resident required total assist every time. 1, 2, 6, 9, 10, 13

In 1 instance, documentation did not support resident required weight bearing assist three or more times. 4

Toilet Use Support Provided

In 1 instance, documentation did not support resident was a one person physical help at least once. 16

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 O0400-0700

Occupational Therapy

In 1 instance, documentation did not support medical necessity for therapy. 13

RUGS-II Classifications Overturned

In 2 instances, the RUG classifications were 4, 13
overturned.

10 NYCRR §86-2.10, Volume A-2

OFFICE OF THE MEDICAID INSPECTOR GENERAL
FOREST HILLS CARE CENTER
AUDIT #13-4872
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 #13

Disallowance A O0400B Occupational Therapy

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

Facility Comment: "We respectfully disagree with the above decision for the following reason.":

- 1) There is a rehabilitation department screen requested by nursing and signed by the MD asking for potential interventions related to episode of resident sliding in wheelchair.
- 2) The screen requests specifically references potential positioning issues/interventions.
- 3) The OT screens the resident in accordance with facility policy and denotes that the resident will benefit from a wheelchair positioning program to insure safety.
- 4) There is no RAI manual protocol or precedent that states that there is any specific mechanism to denote how referrals are generated, what documentation should be used or how much or how many notes are necessary prior to referral.
- 5) It is the responsibility of a skilled nursing facility to prevent harm to its residents and it is within the scope of the OT to determine the best skilled way to mitigate this harm when asked for potential interventions.
- 6) The care afforded this resident is well documented in the OT notes and care plan based on this episode of therapy. The progress notes clearly define the skilled care provided in the process including but not limited to:
 - Postural control activities.
 - Neuromuscular re-education for balance and support.
 - Therapeutic exercises

- Adaptive fitting design
- Selection of appropriate devices

OMIG Response: The MDS Assessment Reference Date (ARD) is 11/07/11. The 7-day look back period is 11/01/11- 11/07/11.

The MDS claimed 5 days, 165 minutes of Occupational Therapy (OT).

Documentation Submitted by the Facility and Reviewed:

- MDS dated 11/07/11.
- Physician Order for OT dated 10/25/11.
- Department of Nursing and Rehabilitation-Rehabilitation Screen Request
- Occupational Therapy OT Evaluation and Plan of Treatment.
- Treatment Encounter Notes for OT.
- Comprehensive Care Plan Occupational Therapy
- Occupational Therapy OT Discharge Summary
- MD order to D/C OT dated 11/08/11.
- Service Log Matrix OT

All other documentation submitted is non-applicable for OT wheelchair positioning or it is outside the 7-day look back period.

The Department of Nursing and Rehabilitation-Rehabilitation Screen Request documented the resident problem of sliding in wheelchair. There was no other documentation in the record indicating the resident problem of sliding in wheelchair or that the resident was having difficulty with wheelchair positioning.

The record did not have documentation of any physician or nursing evaluation of the resident and there were no physician or nursing progress notes of the resident.

The Occupational Therapy (OT) Evaluation and Plan of Treatment documented the resident was seen by OT due to resident noted with decreased postural alignment indicating the need for OT to facilitate sitting tolerance and postural control and increase safety awareness.

The OT encounter dated 10/27/11 indicated the resident was given a non-skid mat on top of wheelchair to prevent resident from sliding forward.

The facility has the responsibility to ensure appropriate out of bed seating, it does not require skilled OT intervention.

Documentation does not support the MDS Manual's coding instructions for Occupational Therapy (Section O0400) requiring that the nursing home code only medically necessary therapies that occurred after admission/re-admission to the nursing home; that the services must be reasonable and necessary for the treatment of the resident's condition, including the requirement that the amount, frequency, and duration of the services must be reasonable; and, that 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.

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.*

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