



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

October 9, 2014

[REDACTED]
Split Rock Rehabilitation & Health Care Center
3525 Baychester Avenue
Bronx, New York 10466

Re: Medicaid PRI Audit #09-4645
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 Split Rock Rehabilitation & Health Care Center ("Facility") for the audit period January 1, 2005 through December 31, 2006. In accordance with 18 NYCRR Section 517.6, this final audit report represents the OMIG's final determination on issues raised in the draft audit report.

Since you did not respond to our revised draft audit report dated May 15, 2014, the findings in the final audit report remain identical to the revised draft audit report. The OMIG has attached the sample detail for the paid claims determined to be in error.

The findings applicable to the October 1, 2006 through March 31, 2009 Medicaid rates resulted in a Medicaid overpayment of \$1,452,621 as detailed in Attachment A. 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.

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 #09-4645
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 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] at [REDACTED] or through email at [REDACTED]

Sincerely,

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

Attachments:

- ATTACHMENT A - Calculation of Medicaid Overpayment
- ATTACHMENT B - Change in RUG Counts for PRIs submitted on October 25, 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]
Split Rock Rehabilitation & Health
Care Center
3525 Baychester Avenue
Bronx, New York 10466

AMOUNT DUE: \$1,452,621

NPI #: [REDACTED]
PROVIDER #: [REDACTED]

AUDIT #09-4645

**AUDIT
TYPE**

PROVIDER
 RATE
 PART B
 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 #09-4645
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 SPLIT ROCK REHABILITATION & HEALTH CARE CENTER
 AUDIT #09-4645
 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	10/01/06 - 12/31/06	238.13	230.68	238.12	230.67	7.45	16107	\$ 119,997
NF	01/01/07 - 03/31/07	247.15	238.60	247.14	238.59	8.55	16263	139,049
NF	04/01/07 - 06/30/07	245.78	237.28	245.77	237.27	8.50	16645	141,483
NF	07/01/07 - 08/31/07	247.68	239.18	247.67	239.17	8.50	11711	99,544
NF	09/01/07 - 12/31/07	247.68	239.18	247.67	239.17	8.50	23485	199,623
NF	01/01/08 - 03/31/08	253.98	245.31	253.97	245.30	8.67	17415	150,988
NF	04/01/08 - 06/30/08	250.25	241.65	250.24	241.64	8.60	17415	149,769
NF	07/01/08 - 12/31/08	253.42	244.82	253.41	244.81	8.60	34712	298,523
NF	01/01/09 - 03/31/09	249.97	241.12	249.96	241.11	8.85	17361	153,645
TOTAL NURSING FACILITY MEDICAID OVERPAYMENT								<u>\$ 1,452,621</u>
VENT	10/01/06 - 12/31/06	630.80	630.80	625.57	625.57	-	950	\$ -
VENT	01/01/07 - 03/31/07	646.75	646.75	641.39	641.39	-	645	-
VENT	04/01/07 - 06/30/07	643.05	643.05	637.72	637.72	-	741	-
VENT	07/01/07 - 10/31/07	643.05	643.05	637.72	637.72	-	888	-
VENT	11/01/07 - 12/31/07	643.05	643.05	637.72	637.72	-	521	-
VENT	01/01/08 - 03/31/08	648.72	648.72	643.27	643.27	-	677	-
VENT	04/01/08 - 12/31/08	643.85	643.85	638.44	638.44	-	2399	-
VENT	01/01/09 - 03/31/09	654.40	654.40	648.88	648.88	-	733	-
TOTAL VENT MEDICAID OVERPAYMENT								<u>\$ -</u>
TOTAL MEDICAID OVERPAYMENT								<u>\$ 1,452,621</u>

NOTE: Impact of the Dementia Per Diem Calculation handled as per diem disallowances on Schedule VII, Line "C".

OFFICE OF THE MEDICAID INSPECTOR GENERAL
SPLIT ROCK REHABILITATION & HEALTH CARE CENTER
CHANGE IN RUG CATEGORIES
OCTOBER 25, 2006

NURSING FACILITY

RUG CATEGORY	CHANGE IN RUG CATEGORY			ADJUSTED
	REPORTED	INCREASE	DECREASE	
BA	1			1
BB	1		1	0
BC	0			0
CA	6			6
CB	20	3		23
CC	10		3	7
CD	9		1	8
PA	9	10		19
PB	11	15		26
PC	49		17	32
PD	13		2	11
PE	10			10
RA	6	2		8
RB	43		5	38
SA	3		1	2
SB	17			17
TOTAL	208	30	30	208

Dementia Patient Per Diem Calculation

CA	0			0
BA	0			0
PA	4		4	0
PB	7		5	2
TOTAL	11	0	9	2

OFFICE OF THE MEDICAID INSPECTOR GENERAL
SPLIT ROCK REHABILITATION & HEALTH CARE CENTER
CHANGE IN RUG CATEGORIES
OCTOBER 25, 2006

VENT

RUG CATEGORY	CHANGE IN RUG CATEGORY			ADJUSTED
	REPORTED	INCREASE	DECREASE	
BA	0			0
BB	0			0
BC	0			0
CA	0			0
CB	0			0
CC	0			0
CD	0			0
PA	0			0
PB	0			0
PC	0			0
PD	0			0
PE	0			0
RA	0			0
RB	1			1
SA	1			1
SB	11			12
TOTAL	13	0	0	14

Dementia Patient Per Diem Calculation

CA	0			0
BA	0			0
PA	0			0
PB	0			0
TOTAL	0			0

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 REVIEW OF PATIENT REVIEW INSTRUMENT
 SPLIT ROCK REHABILITATION & HEALTH CARE CENTER

Sample#	DOB	Initials	PRDate	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS													
								Disallow Toileting	Disallow Physician Visits	Disallow Eating	Disallow Primary Medical Problem	Disallow Dementia Add-on	Disallow Transfer	Disallow PT Level	Disallow OT Level	Disallow Oxygen	Disallow Verbal Disruption	Disallow Transfusion			
51			10/25/06	SB	SB	1.74	1.74														
52			10/25/06	SB	SB	1.74	1.74														
53			10/25/06	SB	SB	1.74	1.74														
54			10/25/06	SB	SB	1.74	1.74														
55			10/25/06	SB	SB	1.74	1.74														
56			10/25/06	SB	SB	1.74	1.74														
57			10/25/06	SB	SB	1.74	1.74														
58			10/25/06	SB	SB	1.74	1.74														
59			10/25/06	SB	SB	1.74	1.74														1
60			10/25/06	SB	SB	1.74	1.74		1												
61			10/25/06	SB	SB	1.74	1.74														
62			10/25/06	SB	SB	1.74	1.74														
63			10/25/06	SB	SB	1.74	1.74														
64			10/25/06	SB	SB	1.74	1.74														
65			10/25/06	SB	SB	1.74	1.74		1												
66			10/25/06	SB	SB	1.74	1.74														
67			10/25/06	SB	SB	1.74	1.74														
68			10/25/06	SB	SB	1.74	1.74			1											
69			10/25/06	SB	SB	1.74	1.74														
70			10/25/06	SB	SB	1.74	1.74														
71			10/25/06	SB	SB	1.74	1.74														
72			10/25/06	SB	SB	1.74	1.74														
73			10/18/06	CD	CD	1.64	1.64														
74			10/18/06	CD	CD	1.64	1.64														
75			10/24/06	CD	CC	1.64	1.32								1						

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 REVIEW OF PATIENT REVIEW INSTRUMENT
 SPLIT ROCK REHABILITATION & HEALTH CARE CENTER

Sample#	DOB	Initials	PRDate	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	DETAILED FINDINGS												
								Disallow Tolerating	Disallow Physician Visits	Disallow Eating	Disallow Primary Medical Problem	Disallow Dementia Add-on	Disallow Transfer	Disallow PT Level	Disallow OT Level	Disallow Oxygen	Disallow Verbal Disruption	Disallow Transfusion		
201			10/25/06	PB	PA	0.83	0.55	1		1	1	1								
202			10/25/06	PB	PA	0.83	0.55	1				1								
203			10/25/06	PB	PA	0.83	0.55	1		1	1	1								
204			10/25/06	PB	PB	0.83	0.83													
205			10/25/06	PB	PB	0.83	0.83													
206			10/10/06	CA	CA	0.7	0.7													
207			10/24/06	CA	CA	0.7	0.7													
208			10/25/06	CA	CA	0.7	0.7		1											
209			10/25/06	CA	CA	0.7	0.7													
210			10/25/06	CA	CA	0.7	0.7													
211			10/25/06	CA	PA	0.7	0.55				1									
212			10/23/06	BA	BA	0.69	0.69													
213			10/23/06	PA	PA	0.55	0.55					1								
214			10/25/06	PA	PA	0.55	0.55					1								
215			10/25/06	PA	PA	0.55	0.55													
216			10/25/06	PA	PA	0.55	0.55													
217			10/25/06	PA	PA	0.55	0.55													
218			10/23/06	PA	PA	0.55	0.55						1							
219			10/25/06	PA	PA	0.55	0.55													
220			10/25/06	PA	PA	0.55	0.55		1		1	1								
221			10/25/06	PA	PA	0.55	0.55													
TOTAL									64	15	12	9	9	6	4	3	2	1	1	

**SPLIT ROCK REHABILITATION & HEALTH CARE CENTER
DETAILED FINDINGS**

PRI FINDINGS**Sample Selection****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 2 instances, documentation did not support the daily frequency requirement for oxygen. 14, 16

Transfusion

The PRI instructions/clarifications define transfusion as *"introduction of whole blood or blood components directly into the blood stream"* and there is a likelihood that the resident would *"still require"* additional transfusions.

10 NYCRR Section 86-2.30 (II) 18-I

In 1 instance, the medical record did not support transfusion during the past 28 days and/or that an additional transfusion would be required. 59

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 2 instances, documentation did not support intermittent supervision and/or minor physical assistance with eating. 201, 203

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 9 instances, documentation did not support continual help with eating.

91, 102, 107, 109, 147, 161, 168, 182, 193

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

In 1 instance, documentation did not support that the resident was totally fed by hand.

189

Transfer

The PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 21

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

In 4 instances, documentation did not support constant guidance or physical assistance in transfer.

23, 109, 152, 178

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

In 2 instances, documentation did not support the resident; required two people or the use of lifting equipment to transfer.

5, 75

Toileting

The PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 22

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

152, 182, 197, 199, 201, 202, 203

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

2, 23, 33, 60, 65, 91, 104, 145, 147, 178

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 47 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.

1, 4, 9, 19, 24, 26, 28, 29, 32, 36, 42, 43, 44, 102, 108, 109, 112, 113, 114, 115, 119, 122, 124, 127, 137, 140, 146, 148, 151, 153, 154, 156, 157, 158, 160, 163, 164, 167, 169, 172, 176, 181, 184, 187, 188, 191, 192

Verbal Disruption

PRI instructions/clarifications define verbal disruption as *"yelling, baiting, threatening, etc."*

10 NYCRR Section 86-2.30 (IV) 23

Level 4 verbal disruption is an *"unpredictable reoccurring verbal disruption at least once per week for no foretold reason."* Also, to qualify a patient as level 4 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."*

- In 1 instance, documentation did not support verbal disruption at least once per week. 145
- In 1 instance, documentation did not support unpredictable disruption. 145

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. 23, 30, 44

- In 1 instance, documentation did not support a licensed professional person with at least a 4 year, specialized degree evaluated the program on a monthly basis. 30

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 1 instance, documentation did not support the positive potential for improvement within a short and/or predictable period of time. 30

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 2 instances, documentation did not support treatment five days/ 2.5 hours per week. 19, 30

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. 23, 30, 44

Occupational Therapy

PRI instructions/clarifications state:

Title 10 NYCRR Section 86-2.30 (V) 27A

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

In 1 instance, documentation did not support a physician, nurse practitioner or appropriately cosigned physician assistant order for restorative therapy. 23

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

In 2 instances, documentation did not support the positive potential for improvement within a short and/or predictable period of time. 7, 17

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 1 instance, documentation did not support treatment five days/ 2.5 hours per week. 7

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

In 1 instance, documentation did not support continued improvement in ADL/functional status through the past 28 days. 23

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

9, 16, 18, 27, 35, 40, 45, 47, 68, 85, 113, 122, 123, 208, 220

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 9 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.

16, 21, 41, 81, 195, 201, 203, 211, 220

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

195, 196, 201, 202, 203, 213, 214, 218, 220

RUGS-II Classifications Overturned

In 42 instances, the RUG-II classifications were overturned.

10 NYCRR Section 86-2.11

1, 17, 19, 23, 42, 75, 91, 102, 107, 108, 109, 122, 137, 140, 145, 146, 147, 151, 152, 153, 154, 157, 158, 160, 167, 169, 172, 176, 178, 181, 182, 184, 187, 188, 191, 193, 197, 199, 201, 202, 203, 211,