



**Office of the
Medicaid Inspector
General**

ANDREW M. CUOMO
Governor

DENNIS ROSEN
Medicaid Inspector General

October 20, 2016

[REDACTED]
Ten Broeck Commons
1 Commons Drive
Lake Katrine, New York 12449

Re: MDS Final Audit Report
Audit #: 14-4909
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 Ten Broeck Commons for the census period ending January 25, 2013. 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 August 10, 2016. 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 \$40,185.20 was calculated using the number of Medicaid days paid for the rate period July 1, 2013 through December 31, 2013 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.

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. If the Provider wishes 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, NY 12204

Questions regarding the request for a hearing should be directed to Office of Counsel, at [REDACTED]

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."

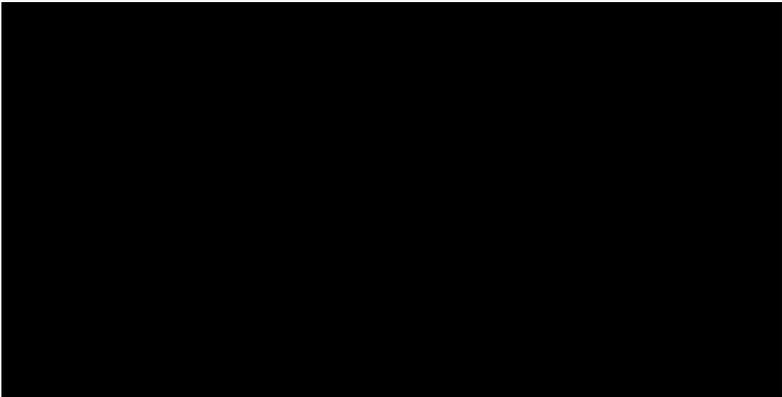
If a hearing is held, you may have a person represent you or you may represent yourself. If you choose to be represented by someone other than an attorney, you must supply along with your hearing request a signed authorization permitting that person to represent you at the hearing; you may call witnesses and present documentary evidence on your behalf.

For a full listing of hearing rights please see 18 NYCRR Part 519.

Should you have any questions regarding the above, please contact 



Division of Medicaid Audit
Office of the Medicaid Inspector General



OFFICE OF THE MEDICAID INSPECTOR GENERAL
TEN BROECK COMMONS
AUDIT 14-4909
CALCULATION OF AUDIT IMPACT

RATE TYPE	DECREASED IN DIRECT COMPONENT OF RATE*	MEDICAID DAY	IMPACT
Part B Eligible/Part B D Eligible	\$1.10	36,532	\$40,185.20
Non-Medicare/Part D Eligible	\$1.12	0	\$0.00
Total			<u><u>\$40,185.20</u></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
 TEN BROECK COMMONS
 AUDIT #14-4909
 ERRORS BY SAMPLE NUMBER

Sample #	Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight	Disallow Cognitive Pattern	Disallow transfer self performance	Disallow toilet use self performance	Disallow active disease diagnosis	Disallow speech therapy	Disallow occupation therapy	Disallow dementia add on
1	CC1	CC1	0.98	0.98							
2	PE1	PE1	0.79	0.79							
3	RMA	IA1	1.17	0.61			1				
4	PD1	PD1	0.72	0.72							
5	RMC	RMC	1.27	1.27							
6	RVC	RVC	1.53	1.53							
7	SSA	SSA	1.03	1.03							
8	CC1	CC1	0.98	0.98							
9	RMA	RMA	1.17	1.17							
10	PE1	PE1	0.79	0.79	1						
11	PE1	PE1	0.79	0.79							
12	CC1	CC1	0.98	0.98	1	1					
13	RMA	PA1	1.17	0.46				1	1		
14	RMC	RMC	1.27	1.27							
15	RHC	RMB	1.4	1.22				1			
16	PE1	PE1	0.79	0.79							
17	RMC	RMC	1.27	1.27							
18	PE1	PE1	0.79	0.79							

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 TEN BROECK COMMONS
 AUDIT #14-4909
 ERRORS BY SAMPLE NUMBER

Sample #			Reported	Derived	Reported	Derived							
	Reported	Derived	RUG	RUG	Weight	Weight	Disallow Cognitive Pattern	Disallow transfer self performance	Disallow toilet use self performance	Disallow active disease diagnosis	Disallow speech therapy	Disallow occupation therapy	Disallow dementia add on
19	IB1	IB1	0.78	0.78									
20	PE1	PE1	0.79	0.79									
21	CC1	CC1	0.98	0.98									
22	CC1	CC1	0.98	0.98									
23	RMB	IB1	1.22	0.78						1			
24	RMC	RMC	1.27	1.27									
25	PE1	PE1	0.79	0.79									
26	RMC	RMC	1.27	1.27									
27	RHC	RHC	1.4	1.4									
28	IB1	CA1	0.78	0.77			1		1				1
29	RMC	PD1	1.27	0.72						1			
30	RVC	RVC	1.53	1.53									
31	RHC	RHC	1.4	1.4						1			
32	RMA	PA1	1.17	0.46						1			
Totals							1	2	1	1	7	1	1

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
TEN BROECK COMMONS
AUDIT #14-4909
MDS DETAILED FINDINGS**

MDS FINDINGS**SAMPLE SELECTION****Cognitive Pattern**

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 the residents' ability to remember both recent and long past events and to think coherently. MDS 3.0 manual guidelines will be followed when examining the medical records.

*42 CFR §483.20 (b) (xvii)
MDS 3.0 Manual 1.1-2.15*

*42 CFR §483.20 (b) (xvii)
MDS 3.0 Manual C0100-C1600*

In 1 instance, documentation did not support staff assessment for impaired cognition. 28

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*

Transfer Self-Performance

In 2 instances, documentation did not support resident required total assist every time. 10, 12

Toilet Use Self-Performance

In 1 instance, documentation did not support resident required total assist every time. 12

Active Disease Diagnosis

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 the diseases coded relate to the resident's functional, cognitive, mood or behavior status, medical treatments, nursing monitoring, or risk of death. MDS 3.0 manual guidelines will be followed when examining the medical records.

42 CFR §483.20 (b) (xvii)
MDS Manual 3.0 I0100-I8000

In 1 instance, documentation did not support Dementia as an active diagnosis during the 7 day look back. 28

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

Speech-Language Pathology

In 7 instances, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 3, 13, 15, 23, 29, 31, 32

Occupational Therapy

In 1 instance, documentation did not support medical necessity for therapy and/or therapy was not reasonable for resident condition. 13

Dementia Add-on

In 1 instance, documentation did not support the diagnosis of Alzheimer's/dementia required for the add-on. 28

10 NYCRR §86-2.40 (z)(1)

RUGS-II Classifications Overturned

In 7 instances, the RUG classifications were overturned. 3, 13, 15, 23, 28, 29, 32

10 NYCRR §86-2.10, Volume A-2

**OFFICE OF THE MEDICAID INSPECTOR GENERAL
TEN BROECK COMMONS
AUDIT #14-4909
ANALYSIS OF PROVIDER RESPONSE**

Sample #	Finding	Provider Response	Accepted/Denied	Explanation
Sample #3	Item #00400A Speech Therapy	<ul style="list-style-type: none"> • Speech Therapy Module Evaluation • Progress Notes By Resident • Physician’s Order Sheet • Therapy Screening Request • MD Notes By Resident • Medicare Benefit Policy Manual Chapter 15 • Medicare Benefit Policy Manual Transmittal AB01-135 • Dementia Treatment • Evidenced Based Practice Recommendations for Dementia: Educating Caregivers 	Denied	<p>The MDS with an ARD of 01/11/13 claims 5 days, 183 minutes of Speech Therapy for the 7-day look back period.</p> <p>The facility documentation provided does not support the medical need for skilled Speech Therapy services.</p> <p>See MDS Manual – Section O</p>
Sample #15	Item #00400A Speech Therapy	<ul style="list-style-type: none"> • Speech Therapy Module Evaluation • Therapy Note History • Physicians Order 	Denied	<p>The MDS with an ARD of 12/22/12 claims 5 days, 144 minutes of Speech Therapy for the 7-day look back period.</p> <p>The facility documentation provided does not</p>

		<ul style="list-style-type: none"> • Sheet • General Nurse's Observation • MD Notes By Resident • MMSE Risk Assessment • Medicare Benefit Policy Manual Chapter 15 • Medicare Benefit Policy Manual Transmittal AB01-135 • Dementia Treatment • Evidenced Based Practice Recommendations for Dementia: Educating Caregivers 		<p>support the medical need for skilled Speech Therapy services.</p> <p>See MDS Manual – Section O</p>
Sample #23	Item #00400A Speech Therapy	<ul style="list-style-type: none"> • Speech Therapy Module Evaluation • Therapy Note History • Physicians Order Sheet • MD Notes By Resident • Therapy Screening • General Nurse's Observation • Medicare Benefit Policy Manual 	Denied	<p>The MDS with an ARD of 12/21/12 claims 5 days, 182 minutes of Speech Therapy for the 7-day look back period.</p> <p>The facility documentation provided does not support the medical need for skilled Speech Therapy services.</p> <p>See MDS Manual – Section O</p>

		<ul style="list-style-type: none"> • Chapter 15 • Medicare Benefit Policy Manual Transmittal AB01-135 • Dementia Treatment • Evidenced Based Practice Recommendations for Dementia: Educating Caregivers 		
Sample #29	Item #00400A Speech Therapy	<ul style="list-style-type: none"> • Speech Therapy Module Evaluation • Therapy Note History • Physicians Order Sheet • Therapy Screening • MD Notes By Resident • Medicare Benefit Policy Manual Chapter 15 • Medicare Benefit Policy Manual Transmittal AB01-135 • Dementia Treatment • Evidenced Based Practice Recommendations for Dementia: Educating 	Denied	<p>The MDS with an ARD of 11/09/12 claims 5 days, 192 minutes of Speech Therapy for the 7-day look back period.</p> <p>The facility documentation provided does not support the medical need for skilled Speech Therapy services.</p> <p>See MDS Manual – Section O</p>

		Caregivers		
Sample #31	Item #O0400A Speech Therapy	<ul style="list-style-type: none"> • Speech Therapy Module Evaluation • Therapy Note History • Physicians Order Sheet • Admissions Observation • MD Notes By Resident • Medicare Benefit Policy Manual Chapter 15 • Medicare Benefit Policy Manual Transmittal AB01-135 • Dementia Treatment • Evidenced Based Practice Recommendations for Dementia: Educating Caregivers 	Denied	<p>The MDS with an ARD of 12/24/12 claims 5 days, 175 minutes of Speech Therapy for the 7-day look back period.</p> <p>The facility documentation provided does not support the medical need for skilled Speech Therapy services.</p> <p>See MDS Manual – Section O</p>
Sample #32	Item #O0400A Speech Therapy	<ul style="list-style-type: none"> • Speech Therapy Module Evaluation • Therapy Note History • Physicians Order Sheet • Therapy Screening • Medicare Benefit 	Denied	<p>The MDS with an ARD of 10/31/12 claims 5 days, 187 minutes of Speech Therapy for the 7-day look back period.</p> <p>The facility documentation provided does not support the medical need for skilled Speech Therapy services.</p> <p>See MDS Manual – Section O</p>

		<p>Policy Manual Chapter 15</p> <ul style="list-style-type: none"> • Medicare Benefit Policy Manual Transmittal AB01- 135 • Dementia Treatment • Evidenced Based Practice Recommendations for Dementia: Educating Caregivers 		
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