



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
584 Delaware Avenue, 2nd Floor
Buffalo, New York 14202

ANDREW M. CUOMO
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

April 26, 2011

Mr. William Pascocello, Operator
Mr. Cornelius Sigety
Niagara Rehabilitation and Nursing Center
822 Cedar Avenue
Niagara Falls, New York 14301

Re: Niagara Rehabilitation and Nursing Center
(formerly Niagara Geriatric Center, Inc.)
Medicaid Rate Audit #10-2965
NPI Number: [REDACTED]
Provider Number: [REDACTED]

Dear Mr. Pascocello and Mr. Sigety:

Enclosed is the final report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Niagara Rehabilitation and Nursing Center's (the "Facility") records that support your RHCF Appeal Nos. 908951, 113898, 222755, 333216, 419107, 051450, 523007, 634903, 712206, 729505 as they applied to Niagara Rehabilitation and Nursing Center's Medicaid rates for the rate period December 15, 1996 through December 31, 2007. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft report.

Since you did not respond to our draft report dated November 29, 2010, the findings in the final report remain identical to the draft report. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$126,714. This overpayment is subject to Department of Health (the "DOH") and Division of Budget (the "DOB") final approval. While not anticipated, any difference between the calculated overpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

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 report. The check should be made payable to the New York State Department of Health and be sent with the attached Remittance Advice to:

Mr. Donald Collins
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #10-2965
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 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 report, the OMIG will impose a 15% withhold after 20 days until the agreement is established. The OMIG may require financial information from you to establish the terms of the repayment agreement. If additional information is requested, the OMIG must receive the information within 30 days of the request or a 50% withhold will be imposed. 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. The OMIG will notify you no later than 5 days after initiating such action. If you wish to enter into a repayment agreement, you must forward your written request within 20 days to the following:

Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204
Phone #: (518) 474-5878
Fax #: (518) 408-0593

If within 20 days, you fail to make full payment or contact the OMIG to make repayment arrangements, the OMIG will establish a withhold equal to 50% of your Medicaid billings to secure payment and liquidate the overpayment amount, interest and/or penalty, not barring any other remedy allowed by law. The OMIG will provide notice to you no later than 5 days after the withholding of any funds.

In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against the amount owed.

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 Charlene D. Fleszar, Esq. of the Office of Counsel at (518) 408-5811.

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. If you have any questions regarding the above, please contact Mr. Robert Pusateri at (716) 847-5090.

Sincerely,



Z. John Zirbel
Director, Audit Resources Management
Division of Medicaid Audit
Audit Management and Development
Office of the Medicaid Inspector General

Enclosure

cc: Ms. Michelle Stirling, Comptroller

Attachments:

- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Operating Expense Disallowances
- EXHIBIT IV - Property Expense Disallowances
- EXHIBIT V - Per Diem Adjustments

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

NAME AND ADDRESS OF AUDITEE

Niagara Rehabilitation and Nursing
Center
822 Cedar Avenue
Niagara Falls, New York 14301

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

AUDIT #10-2965

AMOUNT DUE: \$126,714

AUDIT	<input type="checkbox"/>	PROVIDER
TYPE	<input checked="" type="checkbox"/>	RATE
	<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:

Mr. Donald Collins
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #10-2965
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

NIAGARA REHABILITATION AND NURSING CENTER
RATE PERIODS DECEMBER 15, 1996 THROUGH DECEMBER 31, 2007
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED RATES*		FINAL RATES		RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
	Medicare Part B		Medicare Part B				
	Non-Elig.	Eligible	Non-Elig.	Eligible			
12/15/96 - 12/31/96	\$90.24	/ 90.24	\$88.47	/ 88.47	\$ 1.77	2,402	\$ 4,252
01/01/97 - 02/28/97	89.39	/ 89.39	87.71	/ 87.71	1.68	8,282	13,914
03/01/97 - 03/31/97	88.82	/ 88.82	87.15	/ 87.15	1.67	4,445	7,423
04/01/97 - 05/31/97	93.49	/ 93.49	91.78	/ 91.78	1.71	8,486	14,511
06/01/97 - 08/31/97	93.22	/ 93.22	91.50	/ 91.50	1.72	12,206	20,994
09/01/97 - 11/30/97	99.32	/ 99.32	97.49	/ 97.49	1.83	11,664	21,345
12/01/97 - 12/31/97	100.41	/ 100.41	98.55	/ 98.55	1.86	3,814	7,094
01/01/98 - 02/28/98	102.07	/ 102.07	100.20	/ 100.20	1.87	7,260	13,576
03/01/98 - 03/31/98	107.58	/ 107.58	105.60	/ 105.60	1.98	3,714	7,354
04/01/98 - 05/31/98	108.92	/ 108.92	106.94	/ 106.94	1.98	7,708	15,262
06/01/98 - 08/31/98	108.21	/ 108.21	106.22	/ 106.22	1.99	12,158	24,194
09/01/98 - 11/30/98	110.47	/ 110.47	108.45	/ 108.45	2.02	12,374	24,995
12/01/98 - 12/31/98	110.57	/ 110.57	108.54	/ 108.54	2.03	4,008	8,136
01/01/99 - 02/28/99	113.68	/ 113.68	111.60	/ 111.60	2.08	7,815	16,255
03/01/99 - 03/31/99	113.69	/ 113.69	111.61	/ 111.61	2.08	3,996	8,312
04/01/99 - 05/31/99	114.87	/ 114.87	112.74	/ 112.74	2.13	7,805	16,625
06/01/99 - 06/30/99	115.56	/ 115.56	113.42	/ 113.42	2.14	3,729	7,980
07/01/99 - 11/30/99	111.32	/ 111.32	109.23	/ 109.23	2.09	19,255	40,243
12/01/99 - 12/31/99	111.79	/ 111.79	109.71	/ 109.71	2.08	3,841	7,989
01/01/00 - 02/29/00	115.90	/ 115.90	113.50	/ 113.50	2.40	7,502	18,005
03/01/00 - 05/31/00	114.77	/ 114.77	112.39	/ 112.39	2.38	11,324	26,951
06/01/00 - 08/31/00	116.40	/ 116.40	113.98	/ 113.98	2.42	11,112	26,891
09/01/00 - 11/30/00	114.56	/ 114.56	112.19	/ 112.19	2.37	10,331	24,484
12/01/00 - 12/31/00	115.01	/ 115.01	112.64	/ 112.64	2.37	3,292	7,802
01/01/01 - 02/28/01	118.29	/ 118.29	115.60	/ 115.60	2.69	6,096	16,398
03/01/01 - 05/31/01	117.89	/ 117.89	115.22	/ 115.22	2.67	9,311	24,860
06/01/01 - 11/12/01	117.33	/ 117.33	114.68	/ 114.68	2.65	10,159	26,921
11/13/01 - 11/30/01	117.61	/ 117.61	114.95	/ 114.95	2.66	10,529	28,007
12/01/01 - 12/31/01	120.44	/ 120.44	117.72	/ 117.72	2.72	3,816	10,380

NIAGARA REHABILITATION AND NURSING CENTER
RATE PERIODS DECEMBER 15, 1996 THROUGH DECEMBER 31, 2007
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED RATES*		FINAL RATES		RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
	Medicare Part B		Medicare Part B				
	Non-Elig.	Eligible	Non-Elig.	Eligible			
01/01/02 - 02/28/02	123.44	123.44	120.60	120.60	2.84	7,138	20,272
03/01/02 - 03/31/02	119.67	119.67	116.89	116.89	2.78	3,595	9,994.00
04/01/02 - 05/31/02	122.53	122.53	119.75	119.75	2.78	7,364	20,472
06/01/02 - 08/31/02	123.07	123.07	120.26	120.26	2.81	11,238	31,579
09/01/02 - 11/30/02	124.85	124.85	122.02	122.02	2.83	11,165	31,597
12/01/02 - 12/31/02	126.91	126.91	124.04	124.04	2.87	3,935	11,293
01/01/03 - 02/28/03	126.70	126.70	123.84	123.84	2.86	7,768	22,216
03/01/03 - 05/31/03	122.47	122.47	119.71	119.71	2.76	11,631	32,102
06/01/03 - 08/31/03	121.38	121.38	118.65	118.65	2.73	11,941	32,599
09/01/03 - 11/30/03	125.45	125.45	122.64	122.64	2.81	11,980	33,664
12/01/03 - 12/31/03	126.23	126.23	123.41	123.41	2.82	3,940	11,111
01/01/04 - 02/29/04	129.29	129.29	126.72	126.72	2.57	7,263	18,666
03/01/04 - 03/31/04	129.42	129.42	126.83	126.83	2.59	3,739	9,684
04/01/04 - 05/31/04	129.42	129.42	126.83	126.83	2.59	7,209	18,671
06/01/04 - 08/31/04	129.75	129.75	127.17	127.17	2.58	10,683	27,562
09/01/04 - 11/30/04	125.94	125.94	123.44	123.44	2.50	11,210	28,025
12/01/04 - 12/31/04	130.44	130.44	127.85	127.85	2.59	3,875	10,036
01/01/05 - 12/31/07	Rates are not listed for this period as there were no additional audit adjustments applicable to these rates (2004 only).						-
Total Medicaid Overpayment							\$ 860,696
Less Prior Medicaid Overpayments - Audit #:							<u>Overpayment</u>
04-E04-1508							\$ 535,085
07-3051							167,219
07-4787							31,678
Net Medicaid Overpayment							<u>\$ 126,714</u>

* Any differences between these rates and the rates listed in Exhibit II of this report represent rate changes made subsequent to our audit. These changes remain open to future audit by the Office of the Medicaid Inspector General.

NIAGARA REHABILITATION AND NURSING CENTER
RATE PERIODS DECEMBER 15, 1996 THROUGH DECEMBER 31, 2007
SUMMARY OF MEDICAID RATES AUDITED

The facility's Medicaid utilization ranged from approximately 68 to 81 percent for the period under audit and the Medicaid per diem rates audited are shown below. Any differences between these rates and the "Issued Rates" listed in Exhibit I of this report represent rate changes made subsequent to our audit. These changes remain open to future audit by the Office of the Medicaid Inspector General.

<u>RATE PERIOD</u>	<u>ISSUED RATES</u>	
	<u>Non-Elig.</u>	<u>Eligible</u>
12/15/96 - 12/31/96	\$ 90.24	\$ 90.24
01/01/97 - 02/28/97	89.39	89.39
03/01/97 - 03/31/97	88.82	88.82
04/01/97 - 05/31/97	93.49	93.49
06/01/97 - 08/31/97	93.22	93.22
09/01/97 - 11/30/97	99.32	99.32
12/01/97 - 12/31/97	100.41	100.41
01/01/98 - 02/28/98	102.07	102.07
03/01/98 - 03/31/98	107.58	107.58
04/01/98 - 05/31/98	108.92	108.92
06/01/98 - 08/31/98	108.21	108.21
09/01/98 - 11/30/98	110.47	110.47
12/01/98 - 12/31/98	110.57	110.57
01/01/99 - 02/28/99	113.68	113.68
03/01/99 - 03/31/99	113.69	113.69
04/01/99 - 05/31/99	114.87	114.87
06/01/99 - 06/30/99	115.56	115.56
07/01/99 - 11/30/99	111.32	111.32
12/01/99 - 12/31/99	111.79	111.79
01/01/00 - 02/29/00	115.90	115.90
03/01/00 - 05/31/00	114.77	114.77
06/01/00 - 08/31/00	116.40	116.40
09/01/00 - 11/30/00	114.56	114.56
12/01/00 - 12/31/00	115.01	115.01
01/01/01 - 02/28/01	118.29	118.29
03/01/01 - 05/31/01	117.89	117.89
06/01/01 - 11/12/01	117.33	117.33
11/13/01 - 11/30/01	117.61	117.61
12/01/01 - 12/31/01	120.44	120.44
01/01/02 - 02/28/02	123.44	123.44
03/01/02 - 03/31/02	119.67	119.67
04/01/02 - 05/31/02	122.53	122.53
06/01/02 - 08/31/02	123.07	123.07
09/01/02 - 11/30/02	124.85	124.85
12/01/02 - 12/31/02	126.91	126.91
01/01/03 - 02/28/03	126.70	126.70
03/01/03 - 05/31/03	122.47	122.47
06/01/03 - 08/31/03	121.38	121.38
09/01/03 - 11/30/03	125.45	125.45
12/01/03 - 12/31/03	126.23	126.23
01/01/04 - 02/29/04	129.29	129.29
03/01/04 - 03/31/04	129.42	129.42
04/01/04 - 05/31/04	129.42	129.42
06/01/04 - 08/31/04	129.75	129.75
09/01/04 - 11/30/04	125.94	125.94
12/01/04 - 12/31/04	130.44	130.44

NIAGARA REHABILITATION AND NURSING CENTER
RATE PERIODS DECEMBER 15, 1996 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES

	<u>DESCRIPTION</u>	<u>COST CENTER</u>	<u>OPERATING EXPENSE COMPONENT</u>		
			<u>DIRECT</u>	<u>INDIRECT</u>	<u>NON-COMP.</u>
Expense Allowed on HE12-B			\$ 2,764,187	\$ 1,626,270	\$ 474,538
Less Disallowances:					
1. PRIOR AUDIT DISALLOWANCES					
This adjustment represents the disallowances from prior audit # 04-E04-1508 that have been finalized.			98,357	27,210	4,887
2. ELIMINATION OF SALES TAX EXPENSE					
The provider reported sales tax expense for the base period (12/15/96-12/14/97) in the appropriate operating expense category and was reimbursed the expense in the operating per diem. Appeal #634903 was approved and also allowed sales tax reimbursement in the property portion of the December 15,1996 through December 31, 2004 rates. In order to eliminate the duplication, sales tax was excluded from the base period operating expense for those rates. The prior audit #07-4787 determined that only sales tax in the non-comparable component had to be eliminated because the direct component was significantly over the ceiling and the indirect component was under the base.	Utilities	106			14,495
Regulation: 10 NYCRR Sections 86-2.17(a) & (d); BLTCR Rate Methodology					
Total Disallowance			<u>98,357</u>	<u>27,210</u>	<u>19,382</u>
AUDITED OPERATING EXPENSE			<u>\$ 2,665,830</u>	<u>\$ 1,599,060</u>	<u>\$ 455,156</u>

NIAGARA REHABILITATION AND NURSING CENTER
RATE PERIODS DECEMBER 15, 1996 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES

DESCRIPTION	COST CTR.	RATE PERIOD								
		12/15/96- 12/31/96	01/01/97- 12/31/97	01/01/98- 12/31/98	01/01/99- 12/31/99	01/01/00- 12/31/00	01/01/01- 12/31/01	01/01/02- 12/31/2002	01/01/03- 12/31/2003	01/01/04- 12/31/2004
Expense Allowed on HE12-B		\$398,600	\$398,596	\$401,827	\$398,799	\$458,411	\$546,579	\$ 548,787	\$ 532,197	\$ 518,078
Less Disallowances:										
1. PRIOR AUDIT DISALLOWANCES										
This adjustment represents disallowances from prior audits (#04-E04-1508 & #07-4787) which have been finalized.										
		10,906	10,906	10,906	9,353	16,548	27,827	31,074		
									28,380	7,482
2. SALES TAX EXPENSE DISALLOWANCE										
Appeal #634903 was approved to allow sales tax reimbursement in the property portion of the December 15, 1996 through December 31, 2004 rates. However, the provider was unable to substantiate portions of the sales tax amounts allowed for the 2000 through 2004 rates. The unsubstantiated sales tax expense was disallowed. Regulation: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2300	Sales Tax 005					5,585	7,297	7,507	8,678	13,356
Total Disallowance		<u>10,906</u>	<u>10,906</u>	<u>10,906</u>	<u>9,353</u>	<u>22,133</u>	<u>35,124</u>	<u>38,581</u>	<u>37,058</u>	<u>20,838</u>
AUDITED PROPERTY EXPENSE		<u>\$387,694</u>	<u>\$387,690</u>	<u>\$390,921</u>	<u>\$389,446</u>	<u>\$436,278</u>	<u>\$511,455</u>	<u>\$ 510,206</u>	<u>\$ 495,139</u>	<u>\$ 497,240</u>

NIAGARA REHABILITATION AND NURSING CENTER
RATE PERIODS DECEMBER 15, 1996 THROUGH DECEMBER 31, 2007
PER DIEM ADJUSTMENTS

The Facility received a miscellaneous per diem allowance of \$2.61 in the 2000 rate. The per diem allowance was the result of the Bureau of Long Term Care Reimbursement (BLTCR) calculating a per diem allowance for the Medicaid impact of appeals 908951, 113898, 222755, 333216, 419107, 051450, 523007, 634903, 712206, and 729505 as they applied to the December 15, 1996 through December 31, 1999 rates because those rates were not re-published. There were no adjustments to those appeals for that rate period. However, the 46,271 Medicaid days for rate year 2000 included in the calculation was revised to 43,561 Medicaid days on audit. As a result, the \$2.61 per diem allowance in the 2000 rate was revised to a \$2.77 per diem allowance.