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

April 9, 2014

[redacted]
Kingsway Arms Nursing Center
323 Kings Road
Schenectady, New York 12304

Re: Medicaid Rate Audit #12-2255
NPI Number: [redacted]
Provider Number: [redacted]

Dear [redacted]

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Kingsway Arms Nursing Center's (the "Facility") Medicaid rates for the rate period January 1, 2007 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated November 1, 2013, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A) and the report has been either revised accordingly and/or amended to address your comments (see Attachment B). Consideration of your comments resulted in an overall reduction of $11,189 to the total Medicaid overpayment shown in the draft audit report. As previously stated in the draft audit report, the Medicare Part B and D offsets were not within the scope of the review and may be examined as part of a future audit. The Medicaid overpayment associated with OMIG adjustments was $105,719. However, this audit also processed Bureau of Long Term Care appeals that resulted in an amount due the Facility of $9,521. Consequently, based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $96,198. 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 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:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #12-2255
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 an 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

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

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, please contact or through email at Please refer to audit number 12-2255 in all correspondence.

Sincerely,

Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachment A - Facility Draft Report Comments and OMIG Response
Attachment B - Summary of Changes from Draft Report to Final Report
EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
EXHIBIT II - Summary of Medicaid Rates Audited
EXHIBIT III - Property Expense Disallowances/(Allowances)
EXHIBIT IV - Return on Real Property Equity Disallowances/(Allowances)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE	NPI [redacted] PROVIDER [redacted]
KINGSWAY ARMS NURSING CENTER 323 KINGS ROAD SCHENECTADY, NEW YORK 12304	AUDIT #12-2255
	AUDIT TYPE [ ] PROVIDER [X] RATE [ ] PART B [ ] OTHER:
AMOUNT DUE: $96,198	

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 #12-2255
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
FACILITY DRAFT REPORT COMMENTS AND OMIG RESPONSE

All OMIG adjustments were accepted by the Facility except for those shown below. The following details the disposition of final report adjustments after consideration of the Facility's draft audit report response comments. See Attachment B for adjustment changes included in the final audit report.

EXHIBIT III COMMENTS

Adjustment #6 - Movable Equipment Depreciation Expense Disallowances

Facility Comment

In response to our 2007 and 2008 Medicaid capital rate year audit, we are providing the following information for your consideration of adjusting the draft audit results.
We are providing further support for disallowances related to items #6-Movable Equipment Depreciation and item # 7-Leases.

Attached is a summary of these items with reference to the supporting documentation.

#6 Depreciation (Purchases)		Purchase Cost 2006	2008 Depr.
1 CDW; photo system	Document #11	$642.16	
2 CDW; email server	Document #12	5,445.94	
3 CDW; antivirus software	Document #13	2,990.52	$1,171.00
4 6N, medical record software install	Document #14	99,995.00	5,000.00
5 Barracuda, spam firewall	Document #15	2,112.00	211.00
		$111,185.62	**$6,382.00**

OMIG Response

The Facility submitted documentation to substantiate movable equipment depreciation. The documentation was accepted with the exception of 6N medical records software. Documentation submitted for 6N was not adequate to substantiate the costs; therefore, the draft audit report disallowance remains unchanged. All other movable equipment depreciation disallowances were adjusted accordingly.

Disposition: The Facility's response was partially recognized; the draft audit report disallowances were revised as shown on Attachment B.

Adjustment #7 - Rent Expense Disallowances

Facility Comment

	#7 Rentals	2005	2006	Total
1	My Ziva	$4,530	$5,700	$10,230
2	Clifton Park Rental Center	2,920	2,946	5,866
3	Pitney Bowes	1,560	1,187	2,747
4	Mountain peaks DBA Prime Care	600		600
5	Airgas East	3,145	3,000	6,145
6	Lincare	144	144	288
7	Home Therapy	5,351	1,858	7,209
8	Northeast Gas Tech.		15	15
8	Northeast Gas Tech.		246	246
10	MTM Pharmacy Med Cart		360	360
11	Cit Healthcare		120	120
	Total	**$18,250**	**$15,576**	**$33,826**

1 My Ziva; Nursing Home Website user license company is no longer in business. The company is no longer in business and the invoices could not be located. Support documents #1 and #2 (attached); document the audited. general ledger entries supporting the transactions.

2 Clifton Park Rental; rental of tent and setup for resident and employee summer picnic 2005 - See invoice, document #3 $2,777; the $143 charge invoice was not available, but the expense was audited. 2006 - See invoice marked #4

3 2005 - Quarterly payments to Pitney Bowes are documented on our vendor payment file, Document #5. 2006 - We were able to locate some of the $419 quarterly invoices, Document #6 (payments) and #6A (invoices)

4 Mountain Peaks see g/l entry on Document #7, $600 payment for a lease.

5 Airgas, oxygen payments, Documents #7 and #8.

6 Lincare; pulse dosimeter rental, Document #7 for 2005, Documents #8 for 2006.

7 Home Therapy; oxygen concentrator rentals, Documents #7 and #8.

8/9 Northeast Gas Techn. Helium for Activities Dept Documents #9. $245.83, 02 for Maintenance $15

10/11 MTM Pharmacy Med Carts and Cit Healthcare, Document #10

OMIG Response

The Facility submitted documentation to substantiate rental expense. The documentation was accepted with the exception of My Ziva software. Documentation submitted for My Ziva was not adequate to substantiate the costs; therefore, the draft report disallowance remains unchanged. All other rental expense disallowances were adjusted accordingly.

Disposition: The Facility's response was partially recognized; the draft audit report disallowances were revised as shown on Attachment B.

ATTACHMENT B

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255

SUMMARY OF CHANGES FROM DRAFT REPORT TO FINAL REPORT

EXHIBIT IV - PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)	Rate Period	Draft Disallowance (Allowance)	Change	Final Disallowance (Allowance)
1. MORTGAGE INTEREST EXP. AND AMORT. ALLOWANCES				
	2007	$ (6,598)		$ (6,598)
	2007	(15,615)		(15,615)
2. MORTGAGE INTEREST EXPENSE ADJUSTMENTS	2007	1,979		1,979
	2007	(4,679)		(4,679)
	2008	9,842		9,842
	2008	3,289		3,289
3. MORTGAGE AMORTIZATION DISALLOWANCES	2007	11,186		11,186
	2008	132,822		132,822
4. PROPERTY INSURANCE ADJUSTMENTS	2007	(950)		(950)
	2008	11,803		11,803
5. RETURN ON EQUITY ALLOWANCES	2007	(2,050)		(2,050)
	2008	(1,958)		(1,958)
6. MOVABLE EQUIPMENT DEPR. EXP. DISALLOWANCES	2007	22,575		22,575
	2008	18,405		18,405
	2008	6,380	(1,382)	4,998
7. RENT EXPENSE DISALLOWANCES				
	2007	9,010	(4,480)	4,530
	2008	9,833	(4,133)	5,700
	2007	9,240	(9,240)	
	2008	15	(15)	
	2008	246	(246)	
	2008	480	(480)	
	2008	5,002	(5,002)	
8. AUTO INSURANCE DISALLOWANCES	2007	9,384		9,384
	2008	3,480		3,480

EXHIBIT I

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED PART B & D NON-ELIGIBLE RATES*	FINAL PART B & D NON-ELIGIBLE RATES	RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
01/01/07 - 03/31/07	$172.35	$172.00	$0.35	6,065	$ 2,123
04/01/07 - 06/30/07	171.51	171.16	0.35	6,008	2,103
07/01/07 - 08/31/07	168.10	167.75	0.35	4,106	1,437
09/01/07 - 12/31/07	168.10	167.75	0.35	8,237	2,883
01/01/08 - 03/31/08	172.02	168.73	3.29	6,427	21,145
04/01/08 - 06/30/08	167.98	164.69	3.29	6,767	22,263
07/01/08 - 12/31/08	172.98	169.69	3.29	13,448	44,244
TOTAL MEDICAID OVERPAYMENT					**$ 96,198**

* Any differences between these rates and the rates listed in Exhibit II of this audit report represent rate changes made subsequent to OMIG's audit. These changes remain open to future audit by the OMIG. For the purpose of this Exhibit, the Medicare Part B and D rates are not shown.The rate decrease/(increase) for those rates is the same as shown for the Medicare Part B and D non-eligible rates above.

NOTE: Of the total Medicaid impact listed above, the impact associated with processing of the Bureau of Long Term Care Reimbursement open appeals is $9,521 due the Facility.

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 44 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 audit report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

RATE PERIOD	ISSUED MEDICARE PART B & D NON-ELIGIBLE RATES *
01/01/07 - 03/31/07	$172.93
04/01/07 - 06/30/07	172.08
07/01/07 - 08/31/07	168.67
09/01/07 - 12/31/07	168.67
01/01/08 - 03/31/08	172.61
04/01/08 - 06/30/08	168.55
07/01/08 - 12/31/08	173.57

* The Medicare Part B and D rates are not shown for the purpose of this Exhibit. The Medicare Part B and D offsets were not within the scope of this audit and may be examined as part of a future audit.

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 2007	RATE PERIODS 2008
Property Expense Allowed per HE-12B			$ 1,015,952	$ 1,045,489
Less Disallowances/(Allowances):				
Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals				
1. MORTGAGE INTEREST EXPENSE AND AMORTIZATION ALLOWANCES				
The Facility requested that the 2007 property expense component be revised to include 2007 interest expense and amortization related to a roof project. The OMIG has determined that the expense to be proper. Consequently, allowances were made to reflect the amounts supported by the Facility's records. **In a letter dated April 8, 2014, the Facility withdrew appeal #728503 filed with the Bureau of Long Term Care Reimbursement.** **Regulations: 10 NYCRR Sections 86-2.20(a) & 2.17(a)**	Mort. Int. Mort. Amort.	003 001	(6,598) (15,615)	
BLTCR Open Appeals Disallowances/(Allowances)			$ (22,213)	$ -
Subtotal Property Expense			$ 1,038,165	$ 1,045,489
Other OMIG Audit Disallowances/(Allowances):				
2. MORTGAGE INTEREST EXPENSE ADJUSTMENTS				
a) According to the Bureau of Long Term Care Reimbursement (BLTCR) capital cost methodology, mortgage interest expense is reimbursed on a rate year basis. Audited rate year interest expense varied from the mortgage interest allowed in the promulgated rates resulting in disallowances. In addition, a prior audit (#88-A04-2257) determined that the correct mortgage allocation percentage between real property and moveable equipment was 87.4% and 12.6%, respectively. Consequently, adjustments were necessary. **Regulation: 10 NYCRR Section 86-2.20(a)**	Mort. Int. ME Int.	003 003	1,979 (4,679)	
b) The Facility refinanced its mortgage in June 2008 which resulted in a lower interest rate than was allowed in the 2008 promulgated rates. Accordingly, 2008 rate year mortgage interest expense was reduced to reflect amounts that were actually paid. In addition, a prior audit (#88-A04-2257) determined that the correct mortgage allocation percentage between real property and moveable equipment was 87.4% and 12.6%, respectively. Consequently, adjustments were necessary. **Regulation: 10 NYCRR Section 86-2.20(a)**	Mort. Int. ME Int.	003 003		9,842 3,289
3. MORTGAGE AMORTIZATION DISALLOWANCES				
a) Facilities receiving payments on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. Audited mortgage amortization payments varied from the payments allowed in the rate resulting in disallowances. In addition, a prior audit (#88-A04-2257) determined that the correct mortgage allocation percentage between real property and moveable equipment was 87.4% and 12.6%, respectively. Consequently, adjustments were necessary. **Regulations: 10 NYCRR Sections 86-2.17(a) & 86-2.20(a), PRM-1 Sections 2300 & 2304**	Mort. Amort.	001	11,186	

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 2007	RATE PERIODS 2008
3. b) The Facility refinanced its mortgage in June 2008. Mortgage amortization reported on the RHCF-4 cost report was based on the original mortgage. Since the audited mortgage amortization associated with the refinanced mortgage was less than the amortization allowed in the promulgated rate, the overstated mortgage amortization was disallowed. In addition, a prior audit (#88-A04-2257) determined that the correct mortgage allocation percentage between real property and moveable equipment was 87.4% and 12.6%, respectively. Consequently, adjustments were necessary. **Regulations: 10 NYCRR Sections 86-2.17(a) & 86-2.20(a), PRM-1 Sections 2300 & 2304**	Mort. Amort.	001		132,822
4. PROPERTY INSURANCE ADJUSTMENTS				
Providers receiving payments on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. Audited property insurance varied from the insurance expense allowed in the rate resulting in adjustments. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304**	Prop. Ins.	004	(950)	
	Prop. Ins.	004		11,803
5. RETURN ON EQUITY ALLOWANCES				
A proprietary facility is entitled to return on equity for capital invested for the necessary and proper operation for patient care activities. The real property historical costs and original mortgage amount that were used to calculate the return on equity were adjusted to reflect audited amounts based on previous audits of the Facility. As a result, the return on real property equity was adjusted accordingly. See Exhibit IV for the calculation of the audited return on real property equity. **Regulation: 10 NYCRR Section 86-2.21**	Ret. on Equity	003	(2,050)	
	Ret. on Equity	003		(1,958)
6. MOVABLE EQUIPMENT DEPRECIATION EXPENSE DISALLOWANCES				
a) Costs not related to patient care are costs that are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. The Facility did not provide sufficient documentation justifying the relationship of reported automobile expenses to patient care. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2105.9**	ME Depr.	002	22,575	
	ME Depr.	002		18,405
b) Providers receiving payment based on reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Supporting documentation provided for a portion of reported depreciation was not adequate. As a result, depreciation expense that could not be verified was disallowed. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304**	ME Depr.	002		4,998
7. RENT EXPENSE DISALLOWANCES				
Providers receiving payment on the basis of reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. In addition, the cost data is required to be current, accurate, and in sufficient detail. The Facility was unable to provide documentation or demonstrate the relationship to patient care for reported equipment rental. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304**	Rent B	005	4,530	
	Rent B	005		5,700

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 2007	RATE PERIODS 2008
8. AUTO INSURANCE DISALLOWANCES				
Providers are required to provide adequate cost data that can be verified. Audited insurance varied from the insurance expense allowed in rate resulting in adjustments. Additionally, only costs that are properly chargeable to necessary patient care are allowable. The Facility was unable to provide documentation or demonstrate the relationship to patient care for reported auto insurance expense. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2105.9 & 2300**	Auto Ins.	005	9,384	
	Auto Ins.	005		3,480
Other OMIG Property Expense Disallowances/(Allowances)			$ 41,975	$ 188,381
TOTAL AUDITED PROPERTY EXPENSE			**$ 996,190**	**$ 857,108**

KINGSWAY ARMS NURSING CENTER - AUDIT #12-2255
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
RETURN ON REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)

	RATE PERIODS	
Return on Equity Calculation	**2007**	**2008**
Audited Net Equity	$ 5,119,478	$ 5,353,289
Less: Original Mortgage or Accumulated Reimbursement	2,796,800	2,981,360
Less: ½ Current Return of Equity	-	-
Audited Net Investment	$ 2,322,678	$ 2,371,929
Rate of Return	4.90%	4.68%
Audited Return on Equity	$ 113,811	$ 111,006
Promulgated Return on Equity	111,761	109,048
Disallowance/(Allowance)	**$ (2,050)**	**$ (1,958)**