STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

August 2, 2010

[redacted]
Fort Tryon Rehabilitation and Healthcare Facility
801 West 190th Street
New York, New York 10040

Re: Medicaid Rate Audit # 05-1450
NPI Number: [redacted]
Provider Number: [redacted]

Dear [redacted]

Enclosed is the final report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Fort Tryon Rehabilitation and Healthcare Facility's (the "Facility") Medicaid rates for the rate period November 1, 2002 through December 31, 2006. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft report.

In response to the draft report dated August 10, 2007, you identified specific audit findings with which you disagreed. Your comments have been considered and the report has been either revised accordingly and/or amended to address your comments. Consideration of your comments resulted in no change to the Medicaid overpayment. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $99,088. 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:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #05-1450
Albany, New York 12237-0048

OPTION #2: Enter into a repayment agreement with the OMIG. 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

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 of 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. If you have any questions regarding the above, please contact at

Sincerely,

Chief Medical Facilities Auditor
Division of Medicaid Audit
Audit Management and Development
Office of the Medicaid Inspector General

Attachments:

EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
SCHEDULE A - Summary of Property Expense 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]
Fort Tryon Rehabilitation and Healthcare Facility 801 West 190th Street New York, New York 10040	AUDIT #05-1450
	AUDIT TYPE [ ] PROVIDER [X] RATE [ ] PART B [ ] OTHER:
AMOUNT DUE: $99,088	

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 1237
File #05-1450
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL

David A. Paterson
Governor

James G. Sheehan
Medicaid Inspector General

FINAL REPORT

FORT TRYON REHABILITATION AND HEALTHCARE FACILITY
801 WEST 190TH STREET
NEW YORK, NEW YORK 10040

MEDICAID RATE AUDIT
 # 05-1450

FOR THE RATE PERIOD NOVEMBER 1, 2002
THROUGH DECEMBER 31, 2006

AUGUST 2, 2010

TABLE OF CONTENTS

	Page
BACKGROUND	1
PURPOSE AND SCOPE	2
SUMMARY	2
DETAILED FINDINGS	3
Property Expense Disallowances/(Allowances)	3
1. Auto Expense Disallowances	3
2. Sales Tax Disallowance	4

EXHIBITS AND SCHEDULES

EXHIBIT I - SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

SCHEDULE A - SUMMARY OF PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

BACKGROUND

Fort Tryon Rehabilitation and Healthcare Facility is a 205 bed proprietary nursing facility (NF) located in New York, New York. The facility received reimbursement from the Medicaid program for the period November 1, 2002 through December 31, 2006 by a daily rate established by the Department of Health. This rate consisted of operating and capital components as well as other various per diems. The operating component included in the November 1, 2002 through December 31, 2006 rates was based on the November 1, 2002 through October 31, 2003 base period. The Department of Health used the property expenses reported in November 1, 2002 through October 31, 2003 as the basis for the November 1, 2002 through December 31, 2005 rates, and 2004 property expenses were used for the 2006 rates.

The facility's Medicaid utilization ranged from approximately 68 to 72 percent for the period under review and the Medicaid per diem rates audited were as follows.

	Medicare Part B	
Rate Period	Non-Eligible	Eligible
11/01/02-12/31/02	$216.03	$215.97
01/01/03-12/31/03	218.84	218.78
01/01/04-12/31/04	225.40	225.34
01/01/05-12/31/05	233.00	232.94
01/01/06-12/31/06	254.13	254.07

This audit included consideration of granted rate appeals reflected in the rates audited. Differences between the above rates and the "issued" rates used for Medicaid impact on Exhibit I of this report represent rate changes made subsequent to our audit. These changes are subject to future audit by the Office of the Medicaid Inspector General.

This audit was completed in accordance with the State of New York Official Compilation of Codes, Rules and Regulations (18 NYCRR Part 517 and 10 NYCRR Subpart 86-2), the Centers for Medicare and Medicaid Services Provider Reimbursement Manual (PRM-1), and the New York State Residential Health Care Facility (RHCF) Accounting and Reporting Manual.

PURPOSE AND SCOPE

The purpose of the audit was to identify Medicaid overpayments associated with the November 1, 2002 through December 31, 2006 promulgated Medicaid rates. The audit included various tests and reviews of selected fiscal and statistical data used in the computation of the Medicaid rates under review. The Medicare Part B offset was not within the scope of the review and may be examined as part of a future audit.

SUMMARY

Our findings applicable to the November 1, 2002 through December 31, 2006 Medicaid rates resulted in a Medicaid overpayment of $99,088 as detailed in Exhibit I. The overpayment was due to capital cost disallowances of $71,406 in the November 1, 2002 through December 31, 2006 rates (summarized on Schedule A).

The overpayment does not reflect the impact on rates subsequent to 2006 that utilized November 1, 2002 through October 31, 2003 as the base year for operating expense.

DETAILED FINDINGS

Property Expense Disallowances/(Allowances)

1. Auto Expense Disallowances

According to PRM-1, Section 2102.3, costs not related to patient care are costs not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities. 10 NYCRR Section 86-2.17(a) states that for any expense to be allowable it must be related to patient care.

The auto lease and insurance expenses were disallowed because the expenses were not substantiated as related to patient care. The amounts for each rate year were as follows:

	Rate Periods 11/01/02-12/31/05	Rate Year 2006
Auto Lease	$3,761	$8,799
Auto Insurance	-0-	1,096
Total	$3,761	$9,895

Provider Comments:

According to PRM-1, Section 2102.3, costs not related to patient care are costs not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities. 10 NYCRR Section 86-2.17(a) states that for any expense to be allowable it must be related to patient care.

The auto lease and insurance expenses should be allowed because the expenses were incurred by the administrator John Hoffman as part of his regular duties as administrator of the facility and as such directly related to patient care. The regular duties of an administrator include traveling on behalf of patients and their care, they are therefore appropriate and necessary.

Auditor Response:

The Provider did not include any documentation to support their comments. Therefore, the adjustment remains unchanged from the draft report.

2. Sales Tax Disallowance

According to 10 NYCRR Section 86-2.17(d), allowable costs shall not include expenses or portions of expenses reported by individual residential health care facilities which are determined not to be reasonably related to the efficient production of service because of either the nature or amount of the particular item. PRM-1, Section 2102.2 states that costs related to patient care include all necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities. Necessary and proper costs related to patient care are costs which are common and accepted occurrences in the field of the provider's activity. Sales tax of $57,750 that pertained to the sale of tangible property during the change of ownership was reported on the November 1, 2002 through October 31, 2003 cost report. This amount was a non-recurring one-time cost that was incorrectly reimbursed in each rate period through December 31, 2005. The amount has been allowed in the November 1, 2002 through October 31, 2003 rate period and disallowed for the rate periods November 1, 2003 through December 31, 2005 because it is an expense that should be reimbursed only once.

EXHIBIT I

FORT TRYON REHABILITATION AND HEALTHCARE FACILITY
RATE YEARS NOVEMBER 1, 2002 THROUGH DECEMBER 31, 2006
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

	ISSUED RATES*		FINAL RATES				
	Medicare Part B		Medicare Part B				
RATE PERIOD	Non-Elig.	Eligible	Non-Elig.	Eligible	RATE DECREASE	MEDICAID DAYS	MEDICAID OVERPAYMENT
11/01/02-12/31/02	$219.23 /	$219.17	$219.18 /	$219.12	$ 0.05	8,793	$ 440
01/01/03-01/31/03	222.00 /	221.94	221.95 /	221.89	0.05	4,356	218
02/01/03-04/30/03	224.83 /	224.77	224.78 /	224.72	0.05	12,505	625
05/01/03-07/31/03	225.25 /	225.19	225.20 /	225.14	0.05	12,926	646
08/01/03-10/31/03	226.79 /	226.73	226.74 /	226.68	0.05	12,926	646
11/01/03-12/31/03	229.98 /	229.92	229.12 /	229.06	0.86	8,571	7,371
01/01/04-01/31/04	236.83 /	236.77	235.96 /	235.90	0.87	4,190	3,645
02/01/04-03/31/04	237.24 /	237.18	236.37 /	236.31	0.87	8,246	7,174
04/01/04-04/30/04	237.24 /	237.18	236.37 /	236.31	0.87	4,055	3,528
05/01/04-07/31/04	238.42 /	238.36	237.55 /	237.49	0.87	12,436	10,819
08/01/04-10/31/04	233.47 /	233.41	232.60 /	232.54	0.87	12,436	10,819
11/01/04-12/31/04	235.74 /	235.68	234.87 /	234.81	0.87	8,246	7,174
01/01/05-01/31/05	243.72 /	243.66	242.85 /	242.79	0.87	3,914	3,405
02/01/05-04/30/05	241.87 /	241.81	241.00 /	240.94	0.87	11,238	9,777
05/01/05-06/30/05	245.65 /	245.59	244.78 /	244.72	0.87	7,702	6,701
07/01/05-07/31/05	245.65 /	245.59	244.78 /	244.72	0.87	3,914	3,405
08/01/05-12/31/05	242.35 /	242.29	241.48 /	241.42	0.87	19,318	16,807
01/01/06-03/31/06	254.13 /	254.07	253.99 /	253.93	0.14	10,254	1,436
04/01/06-12/31/06	253.56 /	253.50	253.42 /	253.36	0.14	31,799	4,452
Total Medicaid Overpayment							$ 99,088

* Any differences between these rates and the rates listed in the Background Section 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.

SCHEDULE A

FORT TRYON REHABILITATION AND HEALTHCARE FACILITY
RATE YEARS NOVEMBER 1, 2002 THROUGH DECEMBER 31, 2006
SUMMARY OF PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	COST CENTER	DISALLOWED	TRACE-BACK %	RATE PERIODS 11/01/02-12/31/2002	01/01/03-10/31/2003	11/01/03-12/31/2003	2004	2005	2006
Expense Allowed on HE12-B				$668,937	$851,842	$851,842	$920,039	$900,859	$1,015,533
Less Expense Disallowances/(Allowances):									
1. Auto Expense Disallowances									
Auto Lease 11/01/02-2005 Rates	006	$3,761	99.86%	3,756	3,756	3,756	3,756	3,756	
Auto Lease 2006 Rate	006	8,799	99.86%						8,787
Auto Insurance 2006 Rate	006	1,096	99.86%						1,094
2. Sales Tax Disallowance									
11/01/03-2005 Rates	005	57,750	99.52%			57,473	57,473	57,473	
Total Disallowances		$71,406		$3,756	$3,756	$61,229	$61,229	$61,229	$9,881
Audited Property Expense				$665,181	$848,086	$790,613	$858,810	$839,630	$1,005,652