



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

259 Monroe Avenue, Room 312
Rochester, New York 14607

(585) 238-8166
Fax: (585) 238-8169

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
ACTING MEDICAID INSPECTOR GENERAL

August 8, 2011

[REDACTED]
Saint Ann's Home for the Aged
1500 Portland Ave.
Rochester, NY 14621

Re: Medicaid Rate Audit #09-6942
NPI Number: [REDACTED]
Provider Number (New) [REDACTED]
Provider Number (Old): [REDACTED]

Dear [REDACTED]

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of St. Ann's Home for the Aged's (the "Facility") Medicaid rates for the rate period January 1, 2005 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 report.

In response to the draft audit report dated February 17, 2011, 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 a reduction of \$67,609 to the Medicaid overpayment. 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. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$987,621. 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.

The overpayment does not reflect the impact on rates subsequent to March 31, 2009 that utilized the January 1, 2002 through December 31, 2002 base period for operating expense. Any overpayment resulting from operating expense disallowances in the January 1, 2002 through December 31, 2002 base period report for rates subsequent to March 31, 2009 will be addressed in the future.

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 1237
File #09-6942
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 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

[REDACTED]

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 [REDACTED]
of 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. If you have any questions regarding the above, please contact me at [REDACTED]

Sincerely,

[REDACTED]

Principal 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
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Property Expense Disallowances/(Allowances)
- EXHIBIT IV - Correction of Patient Days

cc: [REDACTED]

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

St. Ann's Home for the Aged
1500 Portland Avenue
Rochester, New York 14621

NPI #: [REDACTED]
PROVIDER (New)# [REDACTED]
PROVIDER (Old)#: [REDACTED]

AUDIT #09-6942

AMOUNT DUE: \$987,621

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:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #09-6942
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

ST. ANN'S HOME FOR THE AGED
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED RATES*</u>		<u>FINAL RATES</u>		<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
	<u>Medicare Part B Non-Eliq.</u>	<u>Medicare Part B Eligible</u>	<u>Medicare Part B Non-Eliq.</u>	<u>Medicare Part B Eligible</u>			
01/01/05 - 03/31/05	\$162.61	\$162.24	\$154.74	\$154.37	7.87	17,397	\$ 136,914
04/01/05 - 06/30/05	163.54	163.17	155.67	155.30	7.87	17,850	140,480
07/01/05 - 09/30/05	165.93	165.56	158.06	157.69	7.87	18,598	146,366
10/01/05 - 12/31/05	165.46	165.09	157.59	157.22	7.87	18,669	146,925
01/01/06 - 03/31/06	171.67	171.29	168.90	168.52	2.77	17,328	47,999
04/01/06 - 06/30/06	172.66	172.28	169.89	169.51	2.77	17,840	49,417
07/01/06 - 09/30/06	173.54	173.16	170.77	170.39	2.77	18,998	52,624
10/01/06 - 12/31/06	177.79	177.41	175.02	174.64	2.77	18,433	51,059
01/01/07 - 03/31/07	192.84	192.45	191.96	191.57	0.88	17,236	15,168
04/01/07 - 06/30/07	191.79	191.40	190.91	190.52	0.88	16,971	14,934
07/01/07 - 08/31/07	186.64	186.25	185.76	185.37	0.88	11,063	9,735
09/01/07 - 12/31/07	186.64	186.25	185.76	185.37	0.88	20,612	18,139
01/01/08 - 03/31/08	194.82	194.42	192.32	191.92	2.50	15,206	38,015
04/01/08 - 06/30/08	190.46	190.06	187.96	187.56	2.50	15,973	39,933
07/01/08 - 12/31/08	195.49	195.09	192.99	192.59	2.50	31,965	79,913
TOTAL MEDICAID OVERPAYMENT							<u>\$ 987,621</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

ST. ANN'S HOME FOR THE AGED
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 59 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 OMIG.

<u>RATE PERIOD</u>	<u>ISSUED RATES</u>	
	<u>Non-Elig.</u>	<u>Eligible</u>
01/01/05 - 03/31/05	\$ 163.24	\$ 162.87
04/01/05 - 06/30/05	164.19	163.82
07/01/05 - 09/30/05	166.58	166.21
10/01/05 - 12/31/05	166.11	165.74
01/01/06 - 03/31/06	172.32	171.94
04/01/06 - 06/30/06	173.31	172.93
07/01/06 - 09/30/06	174.22	173.84
10/01/06 - 12/31/06	178.46	178.08
01/01/07 - 03/31/07	193.52	193.13
04/01/07 - 06/30/07	192.47	192.08
07/01/07 - 08/31/07	187.32	186.93
09/01/07 - 12/31/07	187.32	186.93
01/01/08 - 03/31/08	195.51	195.11
04/01/08 - 06/30/08	191.14	190.74
07/01/08 - 12/31/08	196.17	195.77

ST. ANN'S HOME FOR THE AGED
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	RATE YEARS					
					2005	2006	2007	2008		
Property Expense Allowed per HE-12B					\$ 1,869,936	\$ 1,995,451	\$ 1,853,604	\$ 2,294,150		
Less Disallowances/(Allowances):										
1. DISALLOWANCE OF INTEREST ON UNNECESSARY BORROWING										
The Bureau of Long Term Care Reimbursement (BLTCR) mistakenly reimbursed \$581,453 of mortgage interest in the 2008 rate (\$536,390 as building interest and \$45,063 as movable equipment interest), and offset investment income of \$347,047. The mortgage in question was related to a renovation project completed in 2001. However, shortly after the project was completed, the Facility transferred \$28 million in unrestricted funds to an associated foundation. The BLTCR's position in prior years was that the transfer to the foundation prevented the offset of earnings from these funds against mortgage interest. As a result, the BLTCR deemed the borrowing unnecessary and did not reimburse the mortgage interest in any of the Facility's rates prior to 2008. The BLTCR confirmed that its position on this matter has not changed and that the allowance of mortgage interest in the 2008 rate was an oversight. The OMIG agrees with BLTCR's position and has determined the borrowing to be unnecessary. Consequently, the mortgage and movable equipment interest expenses were disallowed and the income offset was eliminated.					Mort. Int.	003	536,390	95.89%		514,344
					ME Int.	003	45,063	95.89%		43,211
					Int. Offset	003	(347,047)	95.89%		(332,783)
Regulations: 10 NYCRR Sections 86-2.17(a)&(d), 86-2.20(a),(b)&(c)(1), BLTCR Rate Setting Methodology and Policy										
2. DISALLOWANCE OF DEPRECIATION ON FULLY DEPRECIATED ASSETS										
The Facility received depreciation reimbursement on a 1995 nursing station renovation in the 2005 and 2006 rates. It was established in a prior audit (#05-1838) that the historical costs of this renovation had already been fully reimbursed. The allowance of additional depreciation expense for these assets would result in over-reimbursement to the Facility. Since the excess depreciation reimbursement is not properly chargeable to patient care, it was disallowed.					Bldg.Depn.	001	314,690	95.92%	301,851	
					Bldg.Depn.	001	280,738	95.97%		269,424
Regulations: 10 NYCRR Sections 86-2.17(a)&(d)										
3. DEPRECIATION DISALLOWANCE ON ASSETS INCORRECTLY CAPITALIZED										
The provider incorrectly capitalized costs that should have been expensed as operating costs because they were for maintenance, repairs, supplies, etc. These expenditures should have been expensed in accordance with generally accepted accounting principles and the guidelines and definitions included in 10 NYCRR and the RHCFA Accounting and Reporting Manual. Accordingly, the depreciation expense applicable to these costs was disallowed. Various disallowances were reduced as a result of the Facility's response to the draft audit report.					Bldg.Depn.	001	3,493	95.92%	3,350	
					Bldg.Depn.	001	6,220	95.97%		5,969
					Bldg.Depn.	001	7,843	95.88%		7,520
					Bldg.Depn.	001	8,991	95.89%		8,621
					ME Depn.	002	7,156	95.92%	6,864	
					ME Depn.	002	7,202	95.97%		6,912
					ME Depn.	002	10,282	95.88%		9,858
					ME Depn.	002	14,708	95.90%		14,105
Regulations: 10 NYCRR Sections 86-2.4, 86-2.17(a), 86-2.19(a), 455.6 and 455.37, PRM-1 Section 2806.2										

ST. ANN'S HOME FOR THE AGED

RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	RATE YEARS			
					2005	2006	2007	2008
4. DISALLOWANCE OF TELEPHONE EQUIPMENT DEPRECIATION								
Reported depreciation expense included depreciation on telephone equipment. The Bureau of Long Term Care Reimbursement (BLTCR) has determined that telephone expense is an operating expense for residential health care facilities. Since this expense is included in the formula to determine the base, mean and ceiling prices used to establish the indirect operating expense corridor, the reimbursement of telephone expense in the capital component amounts to duplicate reimbursement. Consequently, the depreciation expenses reported on telephone equipment were disallowed from the capital component.								
Regulations: 10 NYCRR Section 86-2.17(a)&(d), BLTCR Rate Methodology								
	ME Depn.	002	4,828	95.92%	4,631			
	ME Depn.	002	4,611	95.97%		4,425		
	ME Depn.	002	4,749	95.88%			4,553	
	ME Depn.	002	5,095	95.90%				4,886
5. DISALLOWANCE OF DEPRECIATION ON UNSUBSTANTIATED ASSETS								
The Facility did not adequately substantiate the cost of various asset additions. As a result, the depreciation expense associated with these additions was disallowed. Certain disallowances were reduced as a result of the Facility's response to the draft audit report.								
Regulations: 10 NYCRR Section 86-2.7 and 2.17(a), PRM-1 Sections 2300 and 2304								
	Bldg.Depn.	001	13,391	95.92%	12,845			
	Bldg.Depn.	001	11,228	95.97%		10,776		
	Bldg.Depn.	001	11,228	95.88%			10,765	
	Bldg.Depn.	001	11,228	95.89%				10,767
	ME Depn.	002	334	95.92%	320			
	ME Depn.	002	294	95.97%		282		
	ME Depn.	002	294	95.88%			282	
	ME Depn.	002	294	95.90%				282
6. DISALLOWANCE OF DEPRECIATION ON NON-ALLOWABLE ASSETS								
The Facility reported depreciation on various asset additions that were not allowable because they were not properly chargeable to nursing home patient care (they included nonallowable related company costs, fundraising, and marketing costs, etc). As a result, the depreciation associated with these additions was disallowed.								
Regulations: 10 NYCRR Sections 2.17(a), (d), (f), &(h), PRM-1 Sections 2100-2102, and 2136.2, RHCF-4 Cost Report Instructions								
	Bldg.Depn.	001	3,221	95.92%	3,090			
	Bldg.Depn.	001	2,577	95.97%		2,473		
	Bldg.Depn.	001	2,577	95.88%			2,471	
	Bldg.Depn.	001	2,698	95.89%				2,587
	ME Depn.	002	1,165	95.92%	1,117			
	ME Depn.	002	1,304	95.97%		1,251		
	ME Depn.	002	2,342	95.88%			2,246	
	ME Depn.	002	6,044	95.90%				5,796
7. DISALLOWANCE OF DEPRECIATION APPLICABLE TO ASSET COSTS								
DISALLOWED BY BLTCR AND IN PRIOR AUDITS								
The Facility reported depreciation expenses related to various assets that were disallowed by BLTCR, and in prior audits of the Facility (audit #97-M014-1000 and #05-1838). These disallowances were due to non-allowable project costs, incorrectly capitalized operating costs, incorrectly capitalized telephone equipment, and other non-allowable asset additions. Accordingly, the depreciation expense related to these asset costs was disallowed.								
Regulation: 10 NYCRR Section 86-2.17(a)								
	Bldg.Depn.	001	16,171	95.92%	15,511			
	Bldg.Depn.	001	11,369	95.97%		10,911		
	Bldg.Depn.	001	20,692	95.88%			19,839	
	Bldg .Depn.	001	20,460	95.89%				19,619
	ME Depn.	002	34,219	95.92%	32,823			
	ME Depn.	002	50,783	95.97%		48,736		
	ME Depn.	002	50,249	95.88%			48,179	
	ME Depn.	002	49,245	95.90%				47,226

ST. ANN'S HOME FOR THE AGED

RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEARS			
					2005	2006	2007	2008
8. DISALLOWANCE OF UNFUNDED DEPRECIATION								
Voluntary residential health care facilities are required to fully fund reported depreciation by the end of the fiscal year in which the depreciation is recorded. The Facility did not adequately fund the 2003 depreciation expense which was reimbursed in the 2005 rate. Consequently, the unfunded portion of the depreciation was disallowed. There were revisions to this adjustment as a result of revisions to adjustments #3 and #5 above.								
Regulation: 10 NYCRR Section 86-2.19(b)								
9. AUTO INSURANCE EXPENSE DISALLOWANCES								
Based on the information the Facility submitted in response to the draft audit report, this adjustment was revised to the following. Reported auto insurance expenses reimbursed in the 2005 and 2006 rates were not allocated to the transportation cost center, which had a lower traceback percentage than the reported cost centers. As a result, the expenses associated with the transportation cost center were reclassified and multiplied by the correct traceback percentages in the 2005 and 2006 rates. (Note: The Facility was given detailed schedules in support of these audit adjustments)								
Regulations: 10 NYCRR Sections 86-2.7, and 2.17(a), PRM-1 Sections 2300 and 2304, RHCF-4 Cost Report Instructions, BLTCR Rate Setting Methodology and Policy								
10. AUTO RENTAL EXPENSE DISALLOWANCES								
Reported auto rental expenses included amounts that were not properly chargeable to nursing home patient care. Therefore, these rental expenses were disallowed.								
Regulations: 10 NYCRR Sections 2.17(a), (d), & (f), RHCF-4 Cost Report Instructions								
11. PROPERTY INSURANCE EXPENSE DISALLOWANCE								
The Facility's reported property insurance included insurance premiums for business income/interruption. This type of insurance does not relate to the loss of or damage to the Facility's physical property and is only includable in the operating component of the rate. Since these insurance premiums are not allowable as property insurance costs, they were disallowed.								
Regulations: PRM-1 Sections 2161A.1 and 2806.2, RHCF-4 Report Instructions								
Total Disallowances/(Allowances)					\$ 1,091,392	\$ 383,147	\$ 114,932	\$ 344,631
AUDITED PROPERTY EXPENSE					\$ 778,544	\$ 1,612,304	\$ 1,738,672	\$ 1,949,519

ST. ANN'S HOME FOR THE AGED
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
CORRECTION OF PATIENT DAYS

Based on the information the Facility submitted in response to the draft audit report, this adjustment was revised to the following. The audit of patient day statistics disclosed that reported 2005 patient days (used in the 2007 property rate) were understated because they did not include reserved bed hold days, and contained a math error. Therefore, the following adjustment was necessary to reflect the proper days in the property rate calculation.

Regulation: 10 NYCRR Section 86-2.8

	2007 Rate
Patient Days in Promulgated Rates	135,450
Patient Days per Audit	<u>135,829</u>
Understated Patient Days	<u><u>379</u></u>