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

December 22, 2010

[redacted]
Union Plaza Nursing Home, Inc.
33-23 Union Street
Flushing, New York 11354

Re: Medicaid Rate Audit #06-1754
NPI Number: [redacted]
Provider Num[redacted]

Dear [redacted]

Enclosed is the final report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Union Plaza Nursing Home Inc.'s (the "Facility") Medicaid rates for the rate period January 1, 2002 through December 31, 2005. 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 March 17, 2010, 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 $98,964 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 $692,858. 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 #06-1754
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

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

Coordinator Medical Facilities Audit
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 - Operating Expense Disallowances/(Allowances)
EXHIBIT IV - 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

Union Plaza Nursing Home, Inc.
33-23 Union Street
Flushing, New York 11354

AMOUNT DUE: $692,858

NPI #[redacted]
PRO[redacted]

AUDIT #06-1754

AUDIT TYPE	
	[ ] PROVIDER
	[X] RATE
	[ ] PART B
	[ ] 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 #06-1754
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

UNION PLAZA NURSING HOME INC.

RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005

SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED RATES* Medicare Part B Non-Elig.	ISSUED RATES* Medicare Part B Eligible	FINAL RATES Medicare Part B Non-Elig.	FINAL RATES Medicare Part B Eligible	RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
01/01/02 - 01/31/02	$ 224.22	$ 223.06	$ 221.60	$ 220.44	$2.62	7,838	$ 20,536
02/01/02 - 03/31/02	222.40	221.24	219.78	218.62	2.62	15,082	39,515
04/01/02 - 04/30/02	223.79	222.63	221.17	220.01	2.62	7,626	19,980
05/01/02 - 07/31/02	224.84	223.68	222.22	221.06	2.62	22,999	60,257
08/01/02 - 10/31/02	226.71	225.55	224.09	222.93	2.62	23,774	62,288
11/01/02 - 12/31/02	224.44	223.28	221.82	220.66	2.62	15,522	40,668
01/01/03 - 01/31/03	223.81	222.62	222.70	221.51	1.11	7,554	8,385
02/01/03 - 04/30/03	222.73	221.54	221.62	220.43	1.11	21,779	24,175
05/01/03 - 07/31/03	223.37	222.18	222.26	221.07	1.11	22,695	25,191
08/01/03 - 10/31/03	226.78	225.59	225.67	224.48	1.11	22,753	25,256
11/01/03 - 12/31/03	227.54	226.35	226.43	225.24	1.11	15,392	17,085
01/01/04 - 01/31/04	234.01	232.80	231.97	230.76	2.04	7,743	15,796
02/01/04 - 03/31/04	232.27	231.06	230.25	229.04	2.02	14,720	29,734
04/01/04 - 04/30/04	232.27	231.06	230.25	229.04	2.02	7,571	15,293
05/01/04 - 07/31/04	234.70	233.49	232.66	231.45	2.04	23,147	47,220
08/01/04 - 10/31/04	231.20	229.99	229.15	227.94	2.05	22,840	46,822
11/01/04 - 12/31/04	231.63	230.42	229.58	228.37	2.05	14,686	30,106
01/01/05 - 01/31/05	239.79	238.56	237.83	236.60	1.96	6,728	13,187
02/01/05 - 04/30/05	243.10	241.87	241.13	239.90	1.97	20,033	39,465
05/01/05 - 06/30/05	247.28	246.05	245.33	244.10	1.95	13,969	27,240
07/01/05 - 07/31/05	247.28	246.05	245.33	244.10	1.95	7,313	14,260
08/01/05 - 10/31/05	242.11	240.88	240.15	238.92	1.96	21,740	42,610
11/01/05 - 12/31/05	243.79	242.56	241.85	240.62	1.94	14,324	27,789
TOTAL MEDICAID OVERPAYMENT							**$ 692,858**

* 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 OMIG.

UNION PLAZA NURSING HOME INC.

RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005

SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 89 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.

	ISSUED RATES	
	Medicare Part B	
RATE PERIOD	Non-Elig.	Eligible
01/01/02 - 01/31/02	$ 224.55	$ 223.39
02/01/02 - 03/31/02	222.72	221.56
04/01/02 - 04/30/02	224.11	222.95
05/01/02 - 07/31/02	225.17	224.01
08/01/02 - 10/31/02	227.05	225.89
11/01/02 - 12/31/02	224.77	223.61
01/01/03 - 01/31/03	224.17	222.98
02/01/03 - 04/30/03	223.08	221.89
05/01/03 - 07/31/03	223.71	222.52
08/01/03 - 10/31/03	227.16	225.97
11/01/03 - 12/31/03	227.90	226.71
01/01/04 - 01/31/04	234.35	233.14
02/01/04 - 04/30/04	232.65	231.44
05/01/04 - 07/31/04	235.04	233.83
08/01/04 - 10/31/04	231.55	230.34
11/01/04 - 12/31/04	231.95	230.74
01/01/05 - 01/31/05	240.16	238.93
02/01/05 - 04/30/05	243.51	242.28
05/01/05 - 06/30/05	247.69	246.46
07/01/05 - 07/31/05	247.69	246.46
08/01/05 - 10/31/05	242.52	241.29
11/01/05 - 12/31/05	244.20	242.97

UNION PLAZA NURSING HOME INC.

RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005

OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMPARABLE
Operating Expense Allowed per HE-12B			$ 3,367,834	$ 2,226,302	$ 572,739
Less Disallowances/(Allowances):					
SALES TAX ADJUSTMENT					
For rate years beginning January 1, 2004 through December 31, 2005, the Facility recorded and reported sales tax paid as a separate item of expense. This cost was reimbursed in the capital component of the rate. In the base year used for the operating component of the rate, the Facility reported sales tax expense together with the cost of the item or service on which tax was paid. The change in the method of recording and reporting sales tax resulted in duplication of reimbursement. The following disallowances were made to eliminate the duplication for the rate years 2004 through 2005, for which 2/1/1997 - 1/31/1998 cost year was used as the basis for the operating component. **Regulations: 10 NYCRR Section 86-2.17(d), PRM-1, Section 2300**	Activities	014	804		
	Soc. Services	021	802		
	PT	039	1,312		
	Fiscal	004		1,626	
	Admin Svcs	005		1,453	
	Plant	006		13,677	
	Security	008		12,921	
	Laundry	009		7,029	
	Hskp	010		16,757	
	Food	011		7,902	
	Medical Dir	017			25
	Speech	041			44
	Utilities	006			13,452
Total Disallowances/(Allowances)			$ 2,918	$ 61,365	$ 13,521
AUDITED OPERATING EXPENSE BY COMPONENT			**$ 3,364,916**	**$ 2,164,937**	**$ 559,218**

UNION PLAZA NURSING HOME INC.

RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS 2002	2003	2004	2005
Property Expense Allowed on HE-12B			$ 4,229,135	$ 4,034,566	$ 4,099,231	$ 4,179,086
Less Disallowances/(Allowances):						
1. REAL PROPERTY & MOVABLE EQUIPMENT MORTGAGE INTEREST EXPENSE DISALLOWANCE						
According to the Bureau of Long Term Reimbursement (BLTCR) capital cost methodology, mortgage interest expense is reimbursed on a rate year basis. The Facility receives reimbursement for a related realty company's mortgage interest and amortization expenses in lieu of rent paid. As such, the OMIG audit included review of actual mortgage payments incurred by the related company. Consequently disallowances were necessary. **Regulations: 10 NYCRR Sections 86-2.4 and 2.20(a)**	Real Prop. Interest	001	3,846	5,613	7,557	9,695
	ME Interest	003	161	235	316	406
2. MORTGAGE INSURANCE EXPENSE DISALLOWANCE						
Mortgage insurance expense was reimbursed by the Bureau of Long Term Care Reimbursement within allowed mortgage interest for all rate years in scope. However, reported amounts were also allowed as a separate line item in rate year 2002 resulting in a duplicate reimbursement. Consequently, disallowance was necessary. **Regulations: 10 NYCRR Section 86-2.20(a), PRM-1 Section 2300**	Mortgage Insurance	001	156,182			
3. AUTO EXPENSE DISALLOWANCE						
Providers are required to provide adequate cost data that can be verified. 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 equipment use charges. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a). PRM-1 Sections 2102.3 and 2300**	Auto Insurance	005	5,972	5,139	7,400	6,490
	Rent C	001	4,692			
	Rent D	001	4,773			
	Rent F	001		4,692		
	Rent G	001		4,773		
	Rent A	001			4,395	
	Rent B	001			1,312	
	Rent C	001			1,564	
	Rent G	001			4,773	
	Rent A	001				4,776
	Rent B	001				4,807

UNION PLAZA NURSING HOME INC.

RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS 2002	2003	2004	2005
4. REAL PROPERTY AND MOVABLE EQUIPMENT RETURN ON EQUITY DISALLOWANCE/(ALLOWANCE)						
A proprietary residential health care facility is entitled to a reasonable return on average equity capital, excluding capital invested in land, plant, fixed equipment and capital improvements thereto, invested for the necessary and proper operation for patient care activities. Leasehold Improvement costs used for calculating Return on Equity were reduced to reflect costs not associated with the Facility. Consequently, Disallowances/(Allowances) were made. **Regulation: 10 NYCRR Section 86-2.21**	Return on Equity	001	4,836	4,484	4,992	4,636
	Return on Avg. Equity	001	(744)	(399)	(294)	(483)
5. MOVABLE EQUIPMENT DEPRECIATION DISALLOWANCE						
Providers are required to provide adequate data that can be verified. The Facility was unable to provide full documentation for reported movable equipment depreciation expense. In addition, the Facility incorrectly capitalized costs that should have been expensed as operating costs because they were for repairs, inventory or supplies. These expenses should have been expensed in accordance with generally accepted accounting principles and the guidelines and definitions included in the RHCF Accounting and Reporting Manual. Further, movable equipment depreciation included depreciation on telephone equipment. The Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense. Since the expense is included in the formula to determine the base, mean and ceiling prices used to establish the indirect expense corridor, the reimbursement of telephone depreciation expense in the property component amounts to duplicate reimbursement. Consequently, disallowances were necessary. **Regulations: PRM-1 Sections 2102.3 and 2300, 10 NYCRR Sections 86-2.17 (a), 86-2.17 (d), 86-2.4.**	ME Depreciation	002	2,451	7,180	9,769	12,586
6. EQUIPMENT RENTAL EXPENSE DISALLOWANCE						
Providers receiving payment 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. The cost information must be current, accurate, and in sufficient detail. Since the Facility could not fully document computer equipment rentals, disallowances were necessary. **Regulations: PRM-1 Sections 2300 and 2304**	Rent E	001	9,739			
	Rent F	001	2,756			
	Rent B	001		457		
	Rent C	001		1,328		
	Rent G	001				542
	Equipment Other	001		3,254	3,254	

UNION PLAZA NURSING HOME INC.

RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS 2002	2003	2004	2005
7. AMORTIZATION OF ORGANIZATION/START UP COST DISALLOWANCE 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. Reported organization costs pertaining to legal fees for an ADHC program are not related to patient care of the Facility and should not be included in the Facility's rate computation. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2132**	Org/Start up Cost	001	3,841			
8. SALES TAX EXPENSE DISALLOWANCE Certain products and services associated with energy sources provided to long-term care facilities are exempt from New York State sales tax if the facilities are considered to be residential. In addition, certain medical equipment and supplies are not taxable. Further, the Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense for residential health care facilities. Since the expense is included in the formula to determine base, mean and ceiling prices used to establish the indirect expense corridor, the reimbursement of telephone expense in the capital component of the rate amounts to duplicate reimbursement. Reported sales tax included sales tax for disposable laundry/linen, electricity and telephone. Consequently, disallowances were necessary. **Regulations: TSB-A-90(60)S-Sales and Use-Rate of Tax-Residential Energy Sources-Long Term Treatment Facilities, PUB 822-Taxable Status of Medical Equipment and Supplies, PRM-1 Sections 2122.2D & 2300, 10 NYCCR Section 86-2.4**	Sales Tax	005			14,012	9,887
9. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE To be considered as an allowable cost, debt generating interest shall be incurred to satisfy a financial need and be necessary and proper. Additionally, allowable costs shall be properly chargeable to necessary patient care and costs shall not include expenses 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. The OMIG determined the Facility paid substantial dividends thus improperly creating the necessity for the working capital loans. Consequently, working capital interest expense was disallowed. **Regulations: 10 NYCRR Sections 86-2.20 & 2.17(d), PRM-1 Sections 202.1, 202.2**	WCI	005	66,150	72,450	42,525	39,312
Total Disallowance/(Allowances)			$ 264,655	$ 109,206	$ 101,575	$ 92,654
AUDITED PROPERTY EXPENSE			**$ 3,964,480**	**$ 3,925,360**	**$ 3,997,656**	**$ 4,086,432**