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

December 28, 2011

[redacted]
Vestal Rehabilitation Nursing Center
(aka VJNH, Inc.)
c/o Healthcare Associates
18 Harvard Street
Rochester, New York 14607

Re: Medicaid Rate Audit #09-1686
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 Vestal Rehabilitation Nursing Center's (aka VJNH,Inc.) (the "Facility") Medicaid rates for the rate period January 1, 2004 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.

In response to the draft audit report dated November 11, 2010, 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 $17,981 to the total Medicaid overpayment shown in the draft audit report. However, the actual calculation of the final audited Medicaid rates by the Bureau of Long Term Care Reimbursement resulted in an increase of $9,151 to the Medicaid overpayment. Overall, these items resulted in a total net decrease of $8,830 to the estimated Medicaid overpayment included in the draft audit report. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $322,910. 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 December 31, 2007 that utilized the August 1, 1994 through July 31, 1995 base period for operating expense. The Notice of Rate Changes issued to the Facility on December 10, 2010 (Notice #10-4727), that covered the January 1, 2008 through March 31, 2009 Medicaid rates, did not reflect the base period operating expense disallowances contained in this audit report. Any overpayment resulting from these disallowances for rates subsequent to December 31, 2007 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 #09-1686
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:
ATTACHMENT A – Facility Draft Report Comments and OMIG Response
ATTACHMENT B – Summary of Changes from Draft Audit Report to Final Audit Report
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/(Allowances)
EXHIBIT V – Return on and of Equity Disallowances/(Allowances)

cc: [redacted]

CERTIFIED MAIL # [redacted] / RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Vestal Rehabilitation Nursing Center
(aka VJNH, Inc.)
c/o Healthcare Associates
18 Harvard Street
Rochester, NY 14607

AMOUNT DUE: $322,910

NPI #: [redacted]
PROVIDER #: [redacted]

AUDIT #09-1686

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 #09-1686
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

VESTAL REHABILITATION NURSING CENTER - AUDIT #09-1686
OMIG RESPONSE TO PROVIDER DRAFT REPORT COMMENTS

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

EXHIBIT IV COMMENTS

Capital Adjustment #10 – Disallowance of Unsubstantiated Rent Expense

Facility Comment
The Facility has located supporting invoices that substantiate the disallowed rental expenses, copies of which are enclosed. Accordingly, we request that Exhibit IV, No. 10 of the draft audit report be revised to allow the associated rental expenses for which supporting invoices and documentation are enclosed. As a result we request the audit adjustment be reduced to $0.

OMIG Response
The documentation that the Facility supplied only substantiated a portion of the disallowed expenses, and the draft report disallowances were reduced accordingly.

Disposition: The draft audit report disallowances to rental/lease costs were reduced.

Capital Adjustment #12 – Working Capital Interest Expense Disallowance

Facility Comment
For the following reasons, OMIG incorrectly disallowed $59,090 of working capital interest expense during the audit period:

First, the OMIG cites New York State Public Health Law 2808-22(a) in support of this disallowance, which provides that "[n}otwithstanding any inconsistent provision of law or regulation to the contrary, **effective April first, two thousand six and thereafter** [emphasis added], residential health care facility rates of payment determined pursuant to this section for payments made by governmental agencies shall not contain a payment factor for interest on current indebtedness if the residential health care facility cost report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income." Given that this provision is effective for rates of payment determined after April 1, 2006, at a minimum the OMIG inappropriately disallowed the Facility's claimed interest expense for 2004, 2005 and January I, 2006 through March 31, 2006.

Second, 10 NYCRR § 86-2.20 states that "to be an allowable cost, debt generating interest shall be incurred to satisfy a financial need..." The Facility's debt incurred during the pre-Audit Period was, in fact, in satisfaction of a financial need. In cost years 2000-2002 the facility had cumulative losses of $(861,285) during which they accumulated working capital debt of $759,849. The significant losses justify the need for the borrowings. The borrowings included a significant portion for prescription drug costs.

Third, the Medicare Provider Reimbursement Manual, Section 202.2, which was also cited by OMIG in support of this finding, states as follows:

"Only interest expense which is necessary is an allowable cost. To be considered necessary, the interest must be:

- o Incurred on a loan that is made to satisfy a financial need,
- o For a purpose related to patient care, and
- o Incurred on a loan that is reduced by investment income."

The Facility's working capital loans during the Audit Period were made to satisfy financial needs and were related to patient care. Investment income has already reduced the interest expense reimbursement either by DOH rate-setting or by OMIG in this audit.

Fourth, it is inappropriate to retroactively examine cash flow patterns, especially future cash flow patterns that were not known at the time the debt was incurred, to determine whether or not working capital loans were necessary at the time they were incurred. Cash flow, in and of itself, is not a measure of profitability, nor is it relevant to a determination of the reasonableness or unreasonableness of a loan. It is also inappropriate to aggregate cash flow over the entire Audit Period in order to retroactively support a determination that the incurrence of debt was either necessary or prudent. See Schedule I for a schedule of payments moving in and out of the group's nursing facilities. Finally, we note that Facility management did not have the benefit of foresight at the time the debt was incurred, and therefore it is inappropriate to determine reasonableness based on information that was unavailable to the Facility at that time.

Fifth, as reflected on the attached Schedule II, the Facility aggressively repaid the working capital loans during the audit period. Beginning in cost year 2003 the facility began experiencing positive net incomes following several years of negative net losses and paid off more than 85% of its working capital debt in the first year. All of the debt was paid off by the third year of positive net incomes. Based on the Facility's aggressive repayment of the debt, it's clear that the working capital loans were reasonable and that repayment was not extended unnecessarily.

As a result of the foregoing, adjustment No. 12 on Exhibit IV of the Draft Audit Report should be voided in its entirety, allowing full reimbursement of $59,090 of interest expense claimed during the Audit Period.

OMIG Response

The OMIG position is that the working capital loans were unnecessary and imprudent, and that the interest expense on the loans is not allowable. Despite the losses in prior years, the fact that the owner's of the Facility withdrew funds, when these funds could have been used to repay the working capital loans, made the loans unnecessary in the years at issue. The OMIG cited the New York State Public Health Law 2802-22 to cover the rates after 4/1/2006, and to provide additional support for what factors are relevant when determining if working capital loans are allowable, regardless of the effective date of the legislation. For these reasons, no reduction in the OMIG audit disallowance is warranted.

Disposition: The draft report disallowance remains the same.

Capital Adjustment #13 – Offset of Sales Tax Refund

Facility Comment

While we agree that the refund requires offset against the expense we disagree with the allocation of that refund to the rate years under audit. OMIG applied the refund equally across the rate periods under audit. The attached Schedule III, prepared by the consultant who prepared the refund filing shows the correct allocation of the refund amount. As indicated $7,761.42 applies to rate period 2008 and therefore should not be included in the adjustment as that rate period is not currently under audit. We request that Exhibit IV, No. 13 of the Draft Audit Report be revised accordingly, for a total adjustment of $32,988.

OMIG Response
As a result of the information submitted, OMIG agrees with the Facility that the sales tax expense disallowance should be reduced by the amount specified to reflect only the refund applicable to the 2003 through 2005 cost years. The refund applicable to the 2006 cost year was not within the scope of the audit and should not be disallowed.

Disposition: The draft audit report sales tax disallowances were revised to agree with the provider's position.

Capital Adjustment #16 – Disallowance of Barber & Beauty Expense

Facility Comment

NYSDOH Medicaid regulations define an allowable cost as "documented costs which are necessary for the day-to-day operation of the provider, are directly or indirectly related to patient care and are not expressly declared non-allowable by Federal or State regulations."

While Medicare once disallowed barber and beauty costs they revised their regulations effective 7/1998 to allow reimbursement for Barber and Beauty expenses as long as the facility does not charge residents for the service. Medicaid followed suit and that is why the stepdown was revised to allow these costs. The Medicare Benefit Policy Manual, Chapter 16, Sec. 80 states, "Basic personal services such as simple barber and beautician services (e.g., shaves, haircuts, shampoos and simple hair sets) which patients need and cannot perform for themselves may be viewed as ordinary patient care when furnished by a long-stay institution. Such services are covered costs reimbursable under Part A when included in the flat rate charge and provided routinely without charge to the patient by an SNF. . .The services are maintenance of at least a minimum level of personal hygiene, decency and presentability items essential to the well being of the patient and of other patients... However, more elaborate services such as personal manicures, hairstyling are excluded...

The costs associated with this service include the facility costs such as square footage, and the property costs associated with that square footage and utilities as well as non-facility costs such as the beautician services. The facility costs which are reported in the cost report and reimbursed by Medicaid are not charged to the patient. No fee is paid by the patient to the facility. The beautician services, however, are charged to the patient. These costs are not included in the cost report or the Medicaid rate.

As the nursing home does not charge residents for the services the OMIG is seeking to disallow the cost should therefore be allowable. Please revise adjustment #16 to $0.

OMIG Response
The only time where barber and beauty is allowable is when there is no charge at all to the patient and where the routine expenses for personal hygiene and care are included in the "flat rate charge". Since the beautician is charging the patient, the services obviously are not covered in the flat rate charge (the Medicaid per diem). Therefore, such services are not allowable. Also it should be noted that the Facility has not shown that the beauty and barber services rendered to patients does not also include more elaborate services (i.e. permanents and other hairstyling). The beautician is basically running his/her business in nursing facility space and these costs are associated with that business, not the nursing home. See the attached CCH Medicare/Medicaid Guide and the Medicare Benefit Policy Manual for substantiation of this determination.

Disposition: The draft report disallowance remains the same

ATTACHMENT B

VESTAL REHABILITATION NURSING CENTER

SUMMARY OF CHANGES FROM DRAFT AUDIT REPORT TO FINAL AUDIT REPORT - AUDIT #09-1686

The adjustments below were revised based on the Facility's response to the draft audit report. The remaining draft audit report adjustments were unchanged in the final audit report.

	Rate Period	Cost Center	Description	Draft Disallowance (Allowance)	Change	Final Disallowance (Allowance)
EXHIBIT IV - PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)						
10. DISALLOWANCE OF UNSUBSTANTIATED RENT EXPENSE	2004	043	ME Rent E	21,125	(8,377)	12,748
	2004	002	ME Rent F	1,489	-	1,489
	2005	043	ME Rent E	13,210	(5,273)	7,937
	01/01-9/30/06	014	ME Rent C	6,361	(2,256)	4,105
	10/01-12/31/06	014	ME Rent E	6,361	(2,256)	4,105
	01/01-9/30/06	014	ME Rent G	2,046	(94)	1,952
	10/01-12/31/06	014	ME Rent E	2,046	(94)	1,952
	2007	002	ME Rent A	2,664	(393)	2,271
		Adjustment Total		55,302	(18,743)	36,559
13. OFFSET OF SALES TAX REFUND	2005	005	Sales Tax	13,586	(10,251)	3,335
	2006	005	Sales Tax	13,586	(826)	12,760
	2007	005	Sales Tax	13,586	3,314	16,900
		Adjustment Total		40,758	(7,763)	32,995

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

	ISSUED RATES*	FINAL RATES	RATE		
	Medicare Part B	Medicare Part B	DECREASE	MEDICAID	MEDICAID
RATE PERIOD	Non-Elig. Eligible	Non-Elig. Eligible	(INCREASE)	DAYS	OVERPAYMENT
01/01/04 - 03/31/04	$143.06 / 142.77	$140.61 / 140.32	$ 2.45	11,799	$ 28,908
04/01/04 - 06/30/04	146.45 / 146.16	143.98 / 143.69	2.47	11,463	28,314
07/01/04 - 09/30/04	144.60 / 144.31	142.12 / 141.83	2.48	11,835	29,351
10/01/04 - 12/31/04	144.26 / 143.97	141.80 / 141.51	2.46	11,956	29,412
01/01/05 - 03/31/05	143.80 / 143.50	141.18 / 140.88	2.62	11,493	30,112
04/01/05 - 06/30/05	145.38 / 145.08	142.73 / 142.43	2.65	11,299	29,942
07/01/05 - 09/30/05	149.00 / 148.70	146.35 / 146.05	2.65	11,744	31,122
10/01/05 - 12/31/05	148.09 / 147.79	145.46 / 145.16	2.63	11,490	30,219
01/01/06 - 03/31/06	150.40 / 150.09	149.64 / 149.33	0.76	10,915	8,295
04/01/06 - 07/31/06	149.32 / 149.01	148.57 / 148.26	0.75	14,854	11,141
08/01/06 - 09/30/06	149.10 / 148.79	148.33 / 148.02	0.77	7,579	5,836
10/01/06 - 10/31/06	149.10 / 148.79	146.90 / 146.59	2.20	3,890	8,558
11/01/06 - 12/31/06	148.15 / 147.84	145.97 / 145.66	2.18	7,850	17,113
01/01/07 - 03/31/07	157.39 / 157.07	156.62 / 156.30	0.77	11,441	8,810
04/01/07 - 06/30/07	156.58 / 156.26	155.81 / 155.49	0.77	11,420	8,793
07/01/07 - 08/31/07	150.62 / 150.30	149.85 / 149.53	0.77	7,491	5,768
09/01/07 - 12/31/07	150.62 / 150.30	149.85 / 149.53	0.77	14,566	11,216
Total Medicaid Overpayment					$ 322,910

* 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.

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
SUMMARY OF MEDICAID RATES AUDITED

The facility's Medicaid utilization ranged from approximately 71 to 73 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
01/01/04 - 03/31/04	$ 143.46	$ 143.17
04/01/04 - 06/30/04	146.85	146.56
07/01/04 - 09/30/04	145.00	144.71
10/01/04 - 12/31/04	144.68	144.39
01/01/05 - 03/31/05	144.25	143.95
04/01/05 - 06/30/05	145.80	145.50
07/01/05 - 09/30/05	149.42	149.12
10/01/05 - 12/31/05	148.53	148.23
01/01/06 - 03/31/06	150.84	150.53
04/01/06 - 07/31/06	149.77	149.46
08/01/06 - 10/31/06	149.53	149.22
11/01/06 - 12/31/06	148.60	148.29
01/01/07 - 03/31/07	157.87	157.55
04/01/07 - 06/30/07	157.05	156.73
07/01/07 - 08/31/07	151.09	150.77
09/01/07 - 12/31/07	151.09	150.77

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
OPERATING EXPENSE DISALLOWANCES

Less Disallowances:

1. SALES TAX DISALLOWANCE

Non-trendable sales tax reported by the provider for cost years 2002 through 2005 was included in the January 1, 2004 through December 31, 2007 capital component of the rates. The Facility's base year (8/1/1994-7/31/1995) operating expenses also included sales tax expense. Since this base year is used for the operating portion of the January 1, 2004 through December 31, 2007 rates, the inclusion of sales tax in the capital portion of these rates resulted in a duplication of reimbursement. In order to eliminate the duplication, the operating base year sales tax expense was disallowed from the January 1, 2004 through December 31, 2007 Medicaid rates.

Regulation: 10 NYCRR Part 86-2.17(a) & (d), Bureau of Long Term Care Reimbursement (BLTCR) Rate Methodology

2. ELIMINATION OF COSTS RELATED TO TERMINATED SERVICES

The Facility's 2005 RHCF-4 report showed that psychiatric services costs were no longer being incurred as of January 1, 2005. The removal of psychiatric costs from trended base year expense is required to prevent the reimbursement of services that were terminated. Therefore, the base year expense associated with the terminated psychiatric services was disallowed.

Regulation: 10 NYCRR Sections 86-2.17(a)&(d), and 86-2.27

					OPERATING EXPENSE COMPONENT RATES			
	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	DIRECT	INDIRECT	01/01/04-12/31/06 NON-COMP.	01/01/07-12/31/07 NON-COMP.
Expense Allowed on HE-12B					$3,672,526	$ 2,265,076	$ 477,011	$ 329,453
1. Sales Tax Disallowance	Nursing Admin.	013	30	100.00%	30			
	Activities	014	766	100.00%	766			
	PT	039	75	100.00%	75			
	OT	040	224	100.00%	224			
	Pharmacy	042	339	100.00%	339			
	Central Svc.	043	4,786	100.00%	4,786			
	SNF	051/052	388	100.00%	388			
	Fiscal	004	951	99.75%		949		
	Admin.	005	975	99.75%		973		
	Plant	006	6,866	98.55%		6,766		
	Grounds	007	553	98.49%		545		
	Security	008	34	98.49%		33		
	Laundry	009	4,990	100.00%		4,990		
	Housekeeping	010	4,323	100.00%		4,323		
	Patient Food	011/012	3,102	100.00%		3,102		
	Medical Rec.	019	84	100.00%		84		
	Med. Dir. Office	017	21	100.00%			21	21
	Electricity	106	9,105	98.55%			8,973	8,973
	Gas	106	5,847	98.55%			5,762	5,762
2. Elimination of Costs Related to Terminated Services	Psychiatric	038	15,768	100.00%			15,768	15,768
Total Disallowance					$ 6,608	$ 21,765	$ 30,524	$ 30,524
AUDITED OPERATING EXPENSE					$3,665,918	$ 2,243,311	$446,487	$ 298,929

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEAR / RATE PERIOD 2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
Expense Allowed on HE-12B					$ 759,362	$ 733,797	$ 610,613	$ 610,613	$ 738,514
Less Disallowances/(Allowances):									
1. MORTGAGE INTEREST AND AMORTIZATION ADJUSTMENTS	Mtg. Interest	003	33,401	99.22%	33,140				
The reimbursed mortgage interest and amortization did not agree to the actual mortgage payments. Accordingly, these items were adjusted to reflect the substantiated mortgage interest and amortization payments. **Regulations: 10 NYCRR Sections 86-2.4, 2.17(a)&(d), and 86-2.21**	Mtg. Interest	003	4,331	99.99%		4,331			
	Mtg. Interest	003	(63,852)	99.99%			(63,846)		
	Mtg. Amort.	001	(2,917)	98.58%	(2,876)				
	Mtg. Amort.	001	(2,917)	99.88%		(2,913)			
	Mtg. Amort.	001	12,311	99.88%			12,296		
2. ELIMINATION OF MORTGAGE INTEREST AND AMORTIZATION									
The Facility's mortgage was refinanced effective October 1, 2006. However, the Bureau of Long Term Care Reimbursement (BLTCR) did not recognize the refinancing and began to reimburse the Facility a return of real property equity effective January 1, 2007. A proprietary facility is reimbursed mortgage interest, amortization, and a return on real property equity as long as the mortgage is recognized. When the mortgage is no longer recognized, the facility starts to receive a return of real property equity (see adjustment #3 below). Since the Facility no longer had a recognized mortgage as of October 1, 2006, the mortgage interest and amortization expenses included in the October 1, 2006 through December 31, 2006 rates were disallowed. **Regulation: 10 NYCRR Section 86-2.21, BLTCR Rate Methodology**	Mtg. Interest	003	116,989	99.99%				116,977	
	Mtg. Amort.	001	212,258	99.88%				212,003	
3. RETURN OF REAL PROPERTY EQUITY ALLOWANCE (EXHIBIT V)									
As previously mentioned in adjustment #2, the mortgage associated with the facility was no longer recognized as of October 1, 2006. When a mortgage is no longer recognized, the facility is to receive a return of real property equity. Accordingly, a return of real property equity was allowed in lieu of mortgage interest and amortization for the October 1 through December 31, 2006 rate period. See Exhibit V for the calculation of the audited return of real property equity. **Regulation: 10 NYCRR Section 86-2.21, BLTCR Rate Methodology**	Ret. of Equity	005	(199,345)	99.98%				(199,305)	
4. RETURN ON AND RETURN OF REAL PROPERTY EQUITY ADJUSTMENTS									
The real property historical costs and cumulative real property reimbursement that were used to calculate the return on equity in the 2004 through 2007 rates, and the return of equity in the 2007 rates, were adjusted to reflect audited amounts based on previous audits of the Facility. As a result, the returns on and of real property equity were adjusted accordingly. See Exhibit V for the calculation of the audited return on and of real property equity. **Regulation: 10 NYCRR Section 86-2.21, BLTCR Rate Methodology**	Ret. on Equity	005	2,792	99.75%	2,785				
	Ret. on Equity	005	3,419	99.98%		3,418			
	Ret. on Equity	005	2,280	99.98%			2,280		
	Ret. on Equity	005	(88,214)	99.98%				(88,196)	
	Ret. on Equity	005	(2,035)	99.88%					(2,033)
	Ret. of Equity	005	(63,466)	99.88%					(63,390)

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEAR / RATE PERIOD 2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
5. DISALLOWANCE OF PROPERTY INSURANCE EXPENSE The Facility's 2004, 2005, and 2007 rates included insurance premiums for business income/interruption and other general liability insurance. These types of insurance do not relate to the loss of or damage to the Facility's physical property and are 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**	Prop. Ins.	005	7,261	99.75%	7,243				
	Prop. Ins.	005	12,626	99.98%		12,623			
	Prop. Ins.	005	7,553	99.98%					7,551
6. PROPERTY INSURANCE ALLOWANCE Reported 2004 property insurance expense was not reimbursed in the 2006 promulgated rates. Per audit, an allowable property insurance expense was derived (as described in adjustment #5) and allowed in the 2006 property rate. This allowance was contingent upon the Facility's acceptance of the OMIG's above property insurance adjustments and the written withdrawal of any outstanding appeals with the BLTCR regarding property insurance expense addressed in this report. The Facility has indicated its agreement with the property insurance adjustments and informed the OMIG that there are no outstanding appeals with BLTCR. **Regulation: 10 NYCRR Section 86-2.17(a) & (d)**	Prop. Ins.	005	(17,153)	99.98%			(17,150)	(17,150)	
7. DISALLOWANCE OF DEPRECIATION ON PRIOR OWNER'S ASSETS Beginning with the August 1, 1994 rate, the BLTCR recognized the net book values of various assets that were purchased by the previous owners and allowed depreciation on these assets over ten years. Depreciation on these assets was allowed in the 2004 and 2005 rates. These assets were fully reimbursed as of the August 1, 2004 rate, and the depreciation in excess of the recognized asset values was disallowed. **Regulation: 10 NYCRR Sections 86-2.17(a) & (d), and 86-2.22**	ME Depn.	002	17,604	99.88%	17,583				
	ME Depn.	002	42,252	99.84%		42,184			
8. DISALLOWANCE OF TELEPHONE EQUIPMENT RENT EXPENSE The Facility reported rental expenses on telephone equipment as part of a lease that was capitalized by the facility. 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 telephone rents were disallowed from the capital component. **Regulations: 10 NYCRR Section 86-2.17(a) & (d), BLTCR Rate Methodology**	Rent E	043	8,597	100.00%	8,597				
	Rent E	043	8,058	100.00%		8,058			
	Rent C	014	7,493	100.00%			7,493	7,493	
	Rent G	014	728	100.00%			728	728	
	Rent A	002	4,238	99.93%					4,235

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

9. DISALLOWANCE OF OPERATING EXPENSES IN RENT EXPENSE

The Facility reported various expenses such as maintenance agreements, inventory supplies, etc. in rent expense. These expenses are operating expenses and are not includable in property costs. Consequently, these expenses were disallowed from the capital component of the rate.
Regulations: 10 NYCRR Sections 455.6. and 455.37, PRM-1 Section 2806.2

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
Rent C	043	3,843	100.00%	3,843				
Rent E	043	818	100.00%	818				
Rent D	043	3,844	100.00%		3,844			
Rent E	043	223	100.00%		223			
Rent B	043	3,843	100.00%			3,843	3,843	
Rent C	005	2,995	99.98%					2,994
Rent F	043	3,843	100.00%					3,843

10. DISALLOWANCE OF UNSUBSTANTIATED RENT EXPENSE

The Facility reported various rental expenses that could not be substantiated on audit. Consequently, these expenses were disallowed.
Regulations: 10 NYCRR Sections 86-2.7, and 86-2.17(a), PRM-1 Sections 2300 and 2304

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
Rent E	043	12,748	100.00%	12,748				
Rent F	002	1,489	99.88%	1,487				
Rent E	043	7,937	100.00%		7,937			
Rent C	014	4,105	100.00%			4,105	4,105	
Rent G	014	1,952	100.00%			1,952	1,952	
Rent A	002	2,271	99.93%					2,269

11. DISALLOWANCE OF RENT EXPENSE ON LUXURY AUTOMOBILE

The Facility included a lease on a BMW automobile in rent expense. This auto is considered to be a luxury item and not reimbursable. In addition, there was no substantiation that the vehicle was used for patient care. The personal use of a vehicle by the owners or employees is considered additional compensation, which is an operating expense and not allowable as a property cost. Consequently, the rent associated with this vehicle was disallowed from property costs.
Regulations: 10 NYCRR Sections 86-2.17(a),(d)&(f), RHCF-4 Accounting and Reporting Manual

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
Rent C	005	782	99.98%					782

12. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE

The Facility was reimbursed interest expense on working capital loans in the 2004 through 2006 rates. Per audit, these loans were deemed unnecessary and imprudent because the Facility had made material loans and equity distributions to its shareholders. In addition, effective April 1, 2006 and thereafter, residential health care rates of payment determined pursuant to PHL 2808-22(a) shall not contain a payment factor for interest on current indebtedness if the residential health care facility cost report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income. Consequently, the interest expenses associated with the working capital loans were disallowed.
Regulation: 10 NYCRR Sections 86-2.17(a) & (d) and 2.20(a) & (b); PRM-1, Sections 202.1, 202.2, and 2103; PHL 2808-22.

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
WCI Expense	005	27,338	99.75%	27,270				
WCI Expense	005	13,073	99.98%		13,070			
WCI Expense	005	9,377	99.98%			9,375	9,375	-

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
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PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
13. OFFSET OF SALES TAX REFUND In 2006, the provider received a refund of sales taxes on utilities that had been paid from 2003 through 2005. These sales taxes were refunded because nursing homes were not required to pay sales taxes on utilities. Refunds are considered reductions to the specific costs to which they apply in the year of the expenditure. Since the sales taxes on utilities were not necessary or proper, and were eventually refunded, the 2003 through 2005 sales tax expenses (reimbursed in the 2005 through 2007 rates, respectively) were reduced by the refunded amount. **Regulations: 10 NYCRR Sections 86-2.17(a)&(d) and 2.18(a), and PRM-1 Sections 800-804**	Sales Tax	005	3,335	99.98%		3,334			
	Sales Tax	005	12,760	99.98%			12,757	12,757	
	Sales Tax	005	16,900	99.98%					16,897
14. ALLOWANCE OF SALES TAX The Facility only reported $17,272 of sales tax in 2002 (used for the 2004 property rate) because it did not separately record sales taxes until the later part of 2002. The OMIG calculation of 2002 taxable expenses indicated that the 2002 sales tax expense should have been $49,315. Since sales tax expense was eliminated from base period operating expenses (see Exhibit III, adjustment #1), the difference between the allowable amount of $49,315 and the reported amount of $17,272 was allowed to reimburse the facility a full year of sales tax expense. This allowance was contingent upon the Facility's acceptance of the OMIG's sales tax adjustments in this report, and the written withdrawal of any outstanding appeals with the BLTCR regarding the sales tax expense addressed in this report. The Facility has indicated its agreement with the sales tax adjustments and informed the OMIG that there are no outstanding appeals with BLTCR. **Regulations: 10 NYCRR Section 86-2.17(a) & (d), BLTCR Rate Methodology**	Sales Tax	005	(32,043)	99.75%	(31,963)				
15. OFFSET OF INVESTMENT INCOME The Facility had unrestricted nursing home investment income that was not properly offset against interest expense in the promulgated rates. Regulations require that allowable interest expense be reduced by investment income. Therefore, interest expense was reduced by the investment income not properly offset in the promulgated rates. **Regulation: 10 NYCRR Section 86-2.20(c)**	Int. Inc. Offset	003	7,608	99.75%	7,589				

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEAR / RATE PERIOD 2004	2005	01/01/06 09/30/06	10/01/06 12/31/06	2007
16. DISALLOWANCE OF BARBER AND BEAUTY EXPENSE Expenses associated with barber and beauty services were included in reimbursed expense. Barber and beauty costs are not reimbursable under the Medicaid program based on the regulations shown below. Consequently, the barber and beauty expense associated with the property cost centers was disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a) & (d), 86-2.18(a), PRM Section 2106.1, and Medicare Benefit Policy Manual, Chapter 16-80**	Barber & Beauty	067	892	100.00%	892				
	Barber & Beauty	067	974	100.00%		974			
	Barber & Beauty	067	962	100.00%			962	962	
	Barber & Beauty	067	1,333	100.00%					1,333
17. DISALLOWANCE OF NURSERY SCHOOL EXPENSE The Facility operated a nursery school program on its premises. The property costs associated with the program were included in reimbursed nursing facility expenses. This activity is not related to providing nursing home patient care and, as such, is not reimbursable under the Medicaid program. Consequently, the property costs associated with this activity were disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a)&(d) and 2.18(a), PRM-1 Section 2100**	Other	069	892	100.00%	892				
			974	100.00%		974			
			962	100.00%			962	962	
			1,333	100.00%					1,333
Total Disallowances/(Allowances)					90,048	98,057	(24,243)	66,506	(24,186)
AUDITED PROPERTY EXPENSE					$ 669,314	$ 635,740	$ 634,856	$ 544,107	$ 762,700

EXHIBIT V

VESTAL REHABILITATION NURSING CENTER (AKA VJNH, INC.)
RATE YEARS 2004 THROUGH 2007
RETURN OF AND ON EQUITY DISALLOWANCES(ALLOWANCES)

	RATE PERIODS				
Return of Equity Calculation	**1/1/04-12/31/04**	**1/1/05-12/31/05**	**1/1/06-9/31/2006**	**10/1/06-12/31/06**	**1/1/07-12/31/07**
Audited Historical Cost	$ 5,601,133	$ 5,648,331	$ 5,662,187	$ 5,697,091	$ 5,697,091
Less: Mortgage Principal	4,880,000	4,880,000	4,880,000	n/a	n/a
Less: Accumulated Reimbursement	n/a	n/a	n/a	2,856,424	2,906,260
Audited Net Equity	$ 721,133	$ 768,331	$ 782,187	$ 2,840,667	$ 2,790,831
Remaining Useful Life				14.25	14
Audited Return of Equity				$ 199,345	$ 199,345
Promulgated Return of Equity				$ -	$ 135,879
Disallowances(Allowances)				$ (199,345)	$ (63,466)
Audited Return of Equity Reimbursed from 10/1/06 through 12/31/06				$ (49,836)	
Return on Equity Calculation					
Audited Net Equity	$ 721,133	$ 768,331	$ 782,187	$ 2,840,667	$ 2,790,831
Less: ½ Current Return of Equity	-	-	-	24,918	99,673
Audited Net Investment	$ 721,133	$ 768,331	$ 782,187	$ 2,815,749	$ 2,691,158
Rate of Return	5.15%	4.95%	4.45%	4.45%	4.90%
Audited Return on Equity	$ 37,138	$ 38,032	$ 34,807	$ 125,301	$ 131,867
Promulgated Return on Equity	$ 39,930	$ 41,451	$ 37,087	* $ 37,087	* $ 129,832
Disallowances(Allowances)	$ 2,792	$ 3,419	$ 2,280	$ (88,214)	$ (2,035)

* The draft audit report contained an error in the amount shown for the promulgated return on equity. The final audit report has been revised to correct this error. This correction reduced the Facility's Medicaid overpayment.