



STATE OF NEW YORK  
OFFICE OF THE MEDICAID INSPECTOR GENERAL  
221 South Warren Street, Suite 410  
Syracuse, New York 13202

ANDREW M. CUOMO  
GOVERNOR

JAMES C. COX  
MEDICAID INSPECTOR GENERAL

December 21, 2012

[REDACTED]  
Highland Assisted Living Village View  
29 Whispering Pines Lane  
Lakewood, New Jersey 08701

Re: Final Audit Report  
Audit #: 09-5824  
Provider #: [REDACTED]

Dear [REDACTED]:

This letter will serve as our Final Audit Report of the recently completed review of payments made to you for dates of service between November 1, 2003 and December 31, 2008, under the New York State Medicaid Program. This report takes into consideration the amounts included in the Draft Audit Report for Audit Number 09-5824. In addition, we have removed all supplies with a Dispensing Validation System (DVS) code "6" reported in our original Draft Audit Report dated November 25, 2009.

**BACKGROUND, PURPOSE AND SCOPE**

The New York State Office of the Medicaid Inspector General (OMIG) performed a review of payments made to Durable Medical Equipment (DME) vendors on behalf of individuals residing in Assisted Living Program (ALP) homes. In accordance with Section 517.5 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR), this report represents OMIG's revised determination.

The New York State Department of Health (Department) is the single state agency responsible for the administration of the medical assistance (Medicaid) program. The Office of the Medicaid Inspector General (OMIG) is an independent office within the Department responsible for a variety of Medicaid program integrity functions. As part of its responsibilities, the OMIG conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at ensuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in New York Public Health Law, New York Social Services Law, the regulations of the Department of Health and the Department of Mental Hygiene (Titles 10, 14 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York) and the Medicaid Management Information System (MMIS) Provider Manuals and *Medicaid Update* publications.

The Assisted Living Program operates in adult homes and enriched housing programs and provides a combination of residential services and home care services to Medicaid and private pay residents. For each Medicaid enrollee participating in the ALP, a daily rate is paid to the ALP for the provision of nine distinct home care services. For these home care services, no additional fee-for-service billing can be made. According to Section 505.35(h) of Title 18 of NYCRR, medical supplies and equipment not requiring prior approval are one of the nine services included in the all inclusive rate paid to ALPs. The DME Policy Manual states that payment will not be made for items provided by a facility or organization when the costs of these items are included in the facility's Medicaid rate.

## DETAILED FINDINGS

### 1. Final Audit Report Exhibit 1 - Summary of Findings

This audit identified Medicaid overpayments for durable medical equipment and supplies items included in the ALP's all inclusive rate. The DME vendor should bill the ALP facility directly for these items, and not the Medicaid program. Per the original draft audit report, the amount of the overpayments totaled \$30,175.81. After removal of DVS code 6, and claims reported in subsequent audit the overpayment was reduced by \$26,647.79, the remaining amount of the overpayments as defined in 18 NYCRR 518.1 is \$3,528.00. Repayment of \$3,528.00 is due the New York State Department of Health. Enclosed please find a complete listing of the disallowances.

## PROVIDER RIGHTS

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 2739  
File #09-5824  
Albany, New York 12237-0016

**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.

Furthermore, 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 recover payment, 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.

If you choose not to settle this review through repayment, you have the right to challenge these findings by requesting an administrative hearing. Issues you may raise shall be limited to those issues relating to determinations contained in the final audit report. You may only request a hearing to challenge specific audit adjustments which you challenged in a response to the draft audit report. Your hearing request may not address issues regarding the methodology used to determine any rate of payment or fee.

At the hearing you have the right to:

- a) be represented by an attorney or other representative, or to represent yourself;
- b) present witnesses and written and/or oral evidence to explain why the action taken is wrong; and
- c) cross examine witnesses of the Department of Health and/or the OMIG.

As allowed by state regulations, you must make your request for a hearing, in writing, within sixty (60) days of the date of this report 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],  
Office of Counsel, at [REDACTED]

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid Program, take action where appropriate, and recover monies owed through the initiation of a civil lawsuit or other legal mechanisms including, but not limited to, the recovery of state tax refunds pursuant to Section 206 of the Public Health Law and Section 171-f of the State Tax Law.

If you have any questions, regarding the above, please contact [REDACTED] at [REDACTED] or by email at [REDACTED]

Sincerely,

[REDACTED]  
Management Specialist 4  
Data Warehouse and Analysis Unit  
Division of Medicaid Audit  
Office of the Medicaid Inspector General

Attachment:  
Exhibit 1 – Summary of Findings

CERTIFIED MAIL # [REDACTED]  
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**

Highland Assisted Living Village View  
29 Whispering Pines Lane  
Lakewood, New Jersey 08701

**PROVIDER ID** [REDACTED]

**AUDIT #09-5824**

**AMOUNT DUE: \$3,528.00**

AUDIT	<input checked="" type="checkbox"/> PROVIDER
	<input type="checkbox"/> RATE
	<input type="checkbox"/> PART B
TYPE	<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, B.A.M.  
GNARESP Corning Tower, Room 2739  
File #09-5824  
Albany, New York 12237

Thank you for your cooperation.