STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
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Buffalo, New York 14202

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ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

December 10, 2012

[redacted]
Elderwood Affiliates, Inc.
7 Limestone Drive
Williamsville, New York 14221

Re: Elderwood Health Care at Maplewood
Medicaid Rate Audit #10-3265
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 Elderwood Health Care at Maplewood (the "Facility") Medicaid rates for the rate period January 1, 2005 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this audit report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated October 4, 2012, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A); however, consideration of your comments resulted in no reduction to the total Medicaid overpayment shown in the draft report. 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. The Medicaid overpayment associated with OMIG adjustments was $197,989. However, this audit also processed Bureau of Long Term Care appeals that resulted in an amount due from the Facility of $9,881. Consequently, based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $207,870. 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 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:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #10-3265
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

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,

Director, Audit Resources Management
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

cc:
Attachments:
Attachment A - Facility Draft Report Comments and OMIG Response
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 - Return On and Return Of Real Property Equity Disallowances/(Allowances)
EXHIBIT V - Return On Average Equity Disallowances/(Allowances)

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Elderwood Health Care at
Maplewood
225 Bennett Road
Cheektowaga, NY 14227

AMOUNT DUE: $207,870

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

AUDIT #10-3265

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 2739
File #10-3265
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

ELDERWOOD HEALTH CARE AT MAPLEWOOD - AUDIT #10-3265
FACILITY DRAFT REPORT COMMENTS AND OMIG RESPONSE

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

EXHIBIT III COMMENTS

Facility Comment

We are writing to contest the audit adjustments for rate year 2008. More specifically, the OMIG audit #10-3265 does not consider in its calculations the $5M renovation project completed in 2008. This renovation was approved via a properly filed Certificate of Need. Further, a Schedule of Certified Costs was submitted to D.O.H., reviewed by D.O.H., and returned to the Operator. The previously promulgated rate sheets did not recognize nor include these project costs. The facility has filed a "Time of Audit" appeal #11020 requesting recognition of historical cost, mortgage interest expense and mortgage insurance expense beginning in the 2008 rate sheet and properly carried forward into rate year 2009 and beyond.

The D.O.H. approved project costs of $5,077,301 including movable equipment of $415,000 after their review of the Schedule of Certified Costs. Thus, the real property portion of the project equals $4,662,301. Please reference the D.O.H. Final Certified Cost Analysis letter dated November 29, 2010, signed by Thomas M. Jung, Director. The permanent operating certificate for RHCF bed capacity changing from 160 to 170 beds was effective July 11, 2008.

Provider workpapers are included to present Return of Equity, and Return on Equity calculations for the rate periods 2008 thru 2011. Real Property Interest, Movable Equipment Interest, and Mortgage Insurance allowable for rate years 2008 thru 2011 are also provided for your examination and incorporation into the rate sheets. The total value of Return of and Return on Equity to the Provider for rate years 2008 thru 2011 exceeds approximately $340,000, once the rate sheets are properly calculated.

OMIG Response

The Facility has submitted the renovation project to the Department of Health for its review and approval. It is the Department of Health Bureau of Long Term Care Reimbursement's (BLTCR) responsibility to determine the final approved project costs to be reimbursed, and to include such approved project costs into the Facility's rate through the appeal process. Once the appeal rates are issued, the OMIG can then audit such rates. The OMIG does not have the authority to include Approved Project Costs (APC) in the Facility's rates. That authority rests solely with BLCTR through the appeal process. Consequently, since the APC costs have not been addressed by BLTCR through the appeal process and have not been included in the rates audited, the OMIG could not and did not address any of the costs pertaining to this project.

Disposition: The draft report disallowances remain the same.

EXHIBIT I

ELDERWOOD HEALTH CARE AT MAPLEWOOD
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED PART B & D NON-ELIGIBLE RATES*	FINAL PART B & D NON-ELIGIBLE RATES	RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
01/01/05 - 03/31/05	$154.54	$153.31	$1.23	7,484	$ 9,205
04/01/05 - 06/30/05	155.89	154.66	1.23	7,419	9,125
07/01/05 - 09/30/05	161.04	159.81	1.23	7,538	9,272
10/01/05 - 12/31/05	162.10	160.87	1.23	7,642	9,400
01/01/06 - 03/31/06	164.59	161.92	2.67	7,209	19,248
04/01/06 - 06/30/06	163.83	161.11	2.72	7,472	20,324
07/01/06 - 09/30/06	164.89	162.17	2.72	8,161	22,198
10/01/06 - 12/31/06	164.80	162.08	2.72	8,205	22,318
01/01/07 - 03/31/07	179.36	177.97	1.39	7,694	10,695
04/01/07 - 06/30/07	178.48	177.09	1.39	8,369	11,633
07/01/07 - 08/31/07	172.09	170.70	1.39	5,363	7,455
09/01/07 - 12/31/07	172.09	170.70	1.39	10,246	14,242
01/01/08 - 03/31/08	177.40	175.95	1.45	6,502	9,428
04/01/08 - 06/30/08	173.73	172.28	1.45	7,391	10,717
07/01/08 - 12/31/08	177.92	176.47	1.45	15,593	22,610
TOTAL MEDICAID OVERPAYMENT					**$ 207,870**

* Any differences between these rates and the rates listed in Exhibit II of this report represent rate changes made subsequent to OMIG's audit. These changes remain open to future audit by the OMIG. For the purpose of this Exhibit, the Medicare Part B and D rates are not shown. The rate decrease/(increase) for those rates is the same as shown for the Medicare Part B and D non-eligible rates above.

NOTE: Of the total Medicaid impact listed above, the impact associated with the processing of Bureau of Long Term Care open appeals is $9,881 (due from provider).

ELDERWOOD HEALTH CARE AT MAPLEWOOD
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 51 to 56 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.

RATE PERIOD	Issued Medicare Part B & D Non-Eligible Rates *
01/01/05 - 03/31/05	$ 154.54
04/01/05 - 06/30/05	155.89
07/01/05 - 09/30/05	161.04
10/01/05 - 12/31/05	162.10
01/01/06 - 03/31/06	164.59
04/01/06 - 06/30/06	163.83
07/01/06 - 09/30/06	164.89
10/01/06 - 12/31/06	164.80
01/01/07 - 03/31/07	179.36
04/01/07 - 06/30/07	178.48
07/01/07 - 08/31/07	172.09
09/01/07 - 12/31/07	172.09
01/01/08 - 03/31/08	177.40
04/01/08 - 06/30/08	173.73
07/01/08 - 12/31/08	177.92

* The Medicare Part B and D rates are not shown for the purpose of this Exhibit. The Medicare Part B and D offsets were not within the scope of this audit and may be examined as part of a future audit.

ELDERWOOD HEALTH CARE AT MAPLEWOOD
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 2005	01/1/06-03/31/06	04/1/06-12/31/06	2007	2008
Property Expense Allowed per HE-12B			$ 1,005,715	$ 1,053,875	$ 1,053,875	$ 1,260,325	$ 1,308,764
Less Disallowances/(Allowances):							
Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals							
1. MOVABLE EQUIPMENT INTEREST							
The Facility appealed to have movable equipment interest removed as the Bureau of Long Term Care Reimbursement (BLTCR) reimbursed both the Facility and the related company for movable equipment interest. The movable equipment interest was adjusted to eliminate this duplication. **The Facility withdrew the item from the outstanding appeal #633121 in correspondence to BLTCR dated October 22, 2012.** **Regulations: 10 NYCRR Sections 86-2.20(a), & 86-2.21**	ME Int.	001		23,567	23,567		
2. REAL ESTATE TAX ADJUSTMENT							
Beginning with the January 1, 2007 Medicaid rates, the Bureau of Long Term Care Reimbursement (BLTCR) began to subtract real estate taxes from operating base year non-comparable expenses, and allow the property base year real estate taxes in the capital per diem. The BLTCR did not include the real estate taxes for Elderwood Affiliates, Inc., a related company, in the promulgated rates. Therefore, an adjustment was made to include real estate taxes of $5,563 for rate year 2007. **This allowance is contingent upon the Facility's written withdrawal of this particular item from its outstanding appeal #733911, issue #11 filed with the Bureau of Long Term Care Reimbursement. The Facility withdrew the item from the appeal in correspondence to BLTCR dated October 22, 2012.** **Regulations: 10 NYCRR Section 86-2.10(g), RHCF Accounting and Reporting Manual**	RE Tax	006				(5,563)	
BLTCR Open Appeals Disallowances/(Allowances)			$ -	$ 23,567	$ 23,567	$ (5,563)	$ -
Subtotal Property Expense			$ 1,005,715	$ 1,030,308	$ 1,030,308	$ 1,265,888	$ 1,308,764
3. RETURN ON AND OF REAL PROPERTY EQUITY ADJUSTMENTS							
The real property historical costs, original mortgage, and accumulated real property reimbursement were adjusted to audited figures. Various other errors in the HE-12B promulgated rates were also corrected. As detailed to the Facility during the audit, these changes resulted in adjustments to the return on and return of real property equity. (Refer to Exhibit IV) **Regulations: 10 NYCRR Sections 86-2.21 & 86-2.17(d)**	Ret. On Equity Ret. Of Equity	001 001	(4,463) 10,211	(4,493) 11,351	(4,493) 11,351	14,970 35,599	12,944 37,443
4. RETURN ON AVERAGE EQUITY DISALLOWANCES							
The audit of return on moveable equipment equity disclosed the following adjustments:	Ret. on Av. Eq.	001	44,648	93,725	93,725		

a. Average equity was reduced by the related company Maplewood Property Associate's, LP accumulated reimbursement because it was already reimbursed in the rates. This adjustment eliminates the duplication.

b. Average equity was reduced by the Reserve for Replacement since these funds were invested for more than six months. Such funds are not to be included in equity capital.

c. Average equity was reduced by the allocated net investment in Elderwood Associates, LP real property that was included in Land/Leasehold Improvement Other. This adjustment eliminates the duplication.

ELDERWOOD HEALTH CARE AT MAPLEWOOD
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 2005	01/1/06-03/31/06	04/1/06-12/31/06	2007	2008
4. RETURN ON AVERAGE EQUITY DISALLOWANCES (CONT.)							
d. The Facility's base period for operating expense (6/1/85-12/31/85) included reimbursement for the cost of pharmacy drugs and supplies through an unrelated provider. The property costs for the 2005 and 2006 rates also include the allocated costs of Woodmark Pharmacy, a related company. Since the Facility was reimbursed for its full pharmacy costs in the operating base period, any additional expenses allocated from Woodmark Pharmacy and included in the current property rates would result in duplicate reimbursement. Therefore, the equity allocated from Woodmark Pharmacy is disallowed. **Regulations: 10 NYCRR Sections 86-2.28 & 2.17(d), PRM-1 Section 1218.2**							
5. AUTOMOBILE DEPRECIATION AND INSURANCE DISALLOWANCES							
Providers who receive payments on the basis of reimbursable cost must provide adequate cost data based on financial and statistical records that can be verified on audit. Furthermore, the cost information should be current, accurate, and in sufficient detail. The Facility was unable to provide adequate documentation to substantiate the the vehicle usage. Only documented nursing home business use is allowable in the property component. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2105.9, 2300 & 2304**	ME Depr.	002	7,160	9,813	9,813	13,666	10,438
	Auto Ins.	005	4,343	1,235	1,235	3,175	2,570
6. MORTGAGE INTEREST, INSURANCE AND AMORTIZATION							
Reported mortgage interest, insurance, and amortization did not agree to the supporting documentation. Consequenlty, adjustments were made to reflect the amounts supported by the Facility's records. **Regulations: 10 NYCRR Sections 86-2.17(a), 86-2.20(a), & 86-2.21, PRM-1 Sections 2102.3, 2300 & 2304**	Building Int.	001	1,687	2,013	2,013	1,195	1,260
	ME Int.	001	111	135	135	80	84
	Mort. Amort.	001	(1,076)	(1,134)	(1,134)	(1,195)	(1,258)
	Mort. Ins.	001				1,215	1,479
7. INVESTMENT INCOME OFFSET							
Interest expense shall be reduced by investment income with the exception of income earned by funded depreciation accounts and certain other restricted funds. The OMIG determined the Facility had additional unrestricted investment income in excess of the amount offset in the promulgated rate. Consequently, additional investment income offsets were necessary. **Regulations: 10 NYCRR Sections 86-2.17(a) and 86-2.20(c), PRM-1 Section 202.2**	Invest. Inc.	001	7,157	16,473	16,473	14,207	17,786
8. OUT OF PERIOD COSTS DISALLOWANCES							
Expenditures are to be recorded in the period in which they are incurred. Reported real estate tax expense included expenditures pertaining to a prior period. Consequently, a disallowance was necessary. **Regulations: 10 NYCRR Sections 86-2.4 & 86-2.17(a), PRM-1 Sections 2300, 2302.1, & 2304**	Other	006				1,798	
9. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE							
Effective April 1, 2006 and thereafter, rates shall not contain a payment factor for working capital interest if the RHCF-4 report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income. The Facility had a positive net income for cost year 2004. Consequently, working capital interest expense was disallowed. **Regulations: 10 NYCRR Section 86-2.17(d), Public Health Law, Section 2808, Paragraph 22(a)**	WCI	005			2,517		
OMIG Disallowances/(Allowances)			$ 69,778	$ 129,118	$ 131,635	$ 84,710	$ 82,746
TOTAL AUDITED PROPERTY EXPENSE			**$ 935,937**	**$ 901,190**	**$ 898,673**	**$ 1,181,178**	**$ 1,226,018**

EXHIBIT IV

ELDERWOOD HEALTH CARE AT MAPLEWOOD
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)

	RATE PERIODS			
Return of Equity Calculation	**2005**	**2006**	**2007**	**2008**
Real Property Historical Cost per HE-12B	$ 9,555,918	$ 9,636,392	$ 9,652,039	$ 9,741,115
Audit Disallowances/(Allowances)	(4,506)	(4,506)	(12,101)	(4,506)
Audited Historical Cost	$ 9,560,424	$ 9,640,898	$ 9,664,140	$ 9,745,621
Less: Accumulated Reimbursement	8,444,581	8,485,909	8,530,332	8,575,684
Audited Net Equity	$ 1,115,843	$ 1,154,989	$ 1,133,808	$ 1,169,937
Remaining Useful Life	27	26	25	24
Audited Return of Equity	$ 41,328	$ 44,423	$ 45,352	$ 48,747
Promulgated Return of Equity	51,539	55,774	80,951	86,190
Disallowance/(Allowance)	$ 10,211	$ 11,351	$ 35,599	$ 37,443
Return on Equity Calculation				
Audited Net Equity	$ 1,115,843	$ 1,154,989	$ 1,133,808	$ 1,169,937
Less: ½ Current Return of Equity	20,664	22,211	22,676	24,374
Audited Net Investment	$ 1,095,179	$ 1,132,778	$ 1,111,132	$ 1,145,563
Rate of Return	4.95%	4.45%	4.90%	4.68%
Audited Return on Equity	$ 54,211	$ 50,409	$ 54,445	$ 53,612
Promulgated Return on Equity	49,748	45,916	69,415	66,556
Disallowance/(Allowance)	$ (4,463)	$ (4,493)	$ 14,970	$ 12,944

EXHIBIT V

ELDERWOOD HEALTH CARE AT MAPLEWOOD
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
RETURN ON AVERAGE EQUITY DISALLOWANCES/(ALLOWANCES)

	RATE YEARS	
Return on Average Equity	**2005**	**2006**
Average Equity per HE-12B	$ 3,392,631	$ 3,524,539
Audit Disallowances:		
• Eliminate Accumulated Reimbursement	1,604,408	1,828,781
• Invested Funds (Reserve for Replacement)	966,926	981,759
• Eliminate Elderwood Associates Net Investment	96,506	96,411
• Eliminate Woodmark Pharmacy Equity	119,136	117,703
Audited Average Equity	$ 605,655	$ 499,885
Less: Audited Net Investment	1,095,179	1,132,778
Audited Remaining Equity	$ (489,524)	$ (632,893)
Rate of Return	1.87%	3.76%
Return on Average Equity Per Audit	$ -	$ -
Return on Average Equity Per HE-12B	44,648	93,725
Disallowance/(Allowance)	$ 44,648	$ 93,725