



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

December 27, 2012

[REDACTED]
Regal Heights Rehabilitation
and Health Care Center
70-05 35th Avenue
Jackson Heights, New York 11372

Re: Medicaid Rate Audit #11-3808
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 Regal Heights Rehabilitation and Health Care Center's (the "Facility") Medicaid rates for the rate period January 1, 2006 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 audit report.

Since you did not respond to our draft audit report dated October 16, 2012, the findings in the final audit report remain identical to the draft audit 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. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$453,366. 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:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #11-3808
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.

Should you have any questions, please contact [REDACTED] at [REDACTED] or through email at [REDACTED]. Please refer to audit number 11-3808 in all correspondence.

Sincerely,

[REDACTED]
Bureau of Rate Audit
Division of Medicaid Audit
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 # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

REGAL HEIGHTS REHABILITATION
AND HEATH CARE CENTER
70-05 35TH AVENUE
JACKSON HEIGHTS, NY 11372

NPI [REDACTED]
PROVIDER [REDACTED]

AUDIT #11-3808

AMOUNT DUE: \$453,313

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 #11-3808
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

REGAL HEIGHTS REHABILITATION AND HEALTH CARE CENTER
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED PART B & D NON-ELIGIBLE RATES*</u>	<u>FINAL PART B & D NON-ELIGIBLE RATES</u>	<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
01/01/06 - 01/31/06	\$271.78	\$267.75	\$4.03	5,486	\$ 22,109
02/01/06 - 03/31/06	276.39	272.35	4.04	10,760	43,470
04/01/06 - 04/30/06	275.83	271.79	4.04	5,305	21,432
05/01/06 - 07/31/06	274.33	270.30	4.03	16,825	67,805
08/01/06 - 10/31/06	279.95	275.92	4.03	16,024	64,577
11/01/06 - 12/31/06	278.93	274.89	4.04	10,641	42,990
01/01/07 - 03/31/07	284.01	281.88	2.13	15,481	32,975
04/01/07 - 06/30/07	282.61	280.48	2.13	15,503	33,021
07/01/07 - 08/31/07	279.47	277.34	2.13	10,574	22,523
09/01/07 - 12/31/07	279.47	277.34	2.13	22,121	47,118
01/01/08 - 03/31/08	283.30	282.49	0.81	16,959	13,737
04/01/08 - 06/30/08	278.26	277.45	0.81	16,480	13,349
07/01/08 - 12/31/08	284.14	283.33	0.81	34,889	28,260
TOTAL MEDICAID OVERPAYMENT					<u>\$ 453,366</u>

* 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.

REGAL HEIGHTS REHABILITATION AND HEALTH CARE CENTER
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 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.

<u>RATE PERIOD</u>	<u>Issued Medicare Part B & D Non-Eligible Rates *</u>
01/01/06 - 01/31/06	\$ 271.78
02/01/06 - 03/31/06	276.39
04/01/06 - 04/30/06	271.23
05/01/06 - 07/31/06	274.33
08/01/06 - 10/31/06	279.95
11/01/06 - 12/31/06	278.93
01/01/07 - 03/31/07	284.01
04/01/07 - 06/30/07	282.61
07/01/07 - 08/31/07	279.47
09/01/07 - 12/31/07	279.47
01/01/08 - 03/31/08	283.30
04/01/08 - 06/30/08	278.26
07/01/08 - 12/31/08	284.14

* 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.

**REGAL HEIGHTS REHABILITATION AND HEALTH CARE CENTER
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)**

OPERATING EXPENSE COMPONENT					
				NON- COMP. 01/01/06- 12/31/06 RTS.	NON- COMP. 01/01/07- 12/31/08 RTS.
			DIRECT	INDIRECT	
			\$11,603,990	\$4,965,829	\$ 865,252

**COST DISALLOWED TRACE-
CENTER (ALLOWED) BACK %**

**Operating Expense Allowed per HE-12B
Less Disallowances/(Allowances)**

SALES TAX EXPENSE DISALLOWANCES

Beginning with the 2005 rates, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. Prior to 2005, the sales tax expense associated with operating expense was included in the appropriate operating expense category and reimbursed in the operating per diem. By reporting all sales tax in property, the Facility is being reimbursed for sales tax in both the operating and property per diems. In order to eliminate the duplication, sales tax expense was excluded from the base period (03/01/2001 - 02/28/2002) operating expense for the 2006 through 2008 rates.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d)

DESCRIPTION	COST CENTER	TRACE- (ALLOWED)	BACK %	DIRECT	INDIRECT	NON- COMP. 01/01/06- 12/31/06 RTS.	NON- COMP. 01/01/07- 12/31/08 RTS.
Nursing Adm.	013	\$6,969	100.00%	6,969			
Activities	014	1,795	100.00%	1,795			
Social Svcs.	021	121	100.00%	121			
Physical Ther.	039	91	100.00%	91			
Central Svcs.	043	25,385	100.00%	25,385			
Fiscal	004	4	99.12%		4		
Admin.	005	5,558	99.12%		5,509		
Maint.	006	6,449	97.35%		6,278		
Laundry	009	9,760	100.00%		9,760		
Housekeeping	010	85	100.00%		85		
Utilities	006	20,718	97.35%		20,169		20,169

Total Operating Disallowances/(Allowances)

TOTAL AUDITED OPERATING EXPENSE BY COMPONENT

\$	34,361	\$	21,636	\$	20,169	\$	20,169
\$	11,569,629	\$	4,944,193	\$	1,870,449	\$	845,083

**REGAL HEIGHTS REHABILITATION AND HEALTH CARE CENTER
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS		
				2006	2007	2008
Property Expense Allowed per HE-12B				\$ 3,448,837	\$ 4,417,843	\$ 4,193,040
Less Disallowances/(Allowances):						
1. MORTGAGE INTEREST EXPENSE DISALLOWANCES						
According to the Bureau of Long Term Care Reimbursement (BLTCR) capital cost methodology, mortgage interest expense is reimbursed on a rate year basis. Audited rate year interest expense varied from the mortgage interest allowed in the promulgated rates, resulting in disallowances. Regulation: 10 NYCRR Section 86-2.20(a)	Mort. Int.	001	\$239,514	97.17%	232,736	
	ME Int.	001	10,683	97.17%	10,381	
	Mort. Int.	001	235,129	97.17%		228,475
	ME Int.	001	10,515	97.17%		10,217
	Mort. Int.	001	7,907	97.16%		7,682
	ME Int.	001	378	97.16%		367
2. MORTGAGE AMORTIZATION DISALLOWANCES						
The analysis of the mortgage statements disclosed that the amount included in the promulgated rate for mortgage amortization exceeded audited amounts. Consequently, disallowances were necessary. Regulations: 10 NYCRR Sections 86-2.17(a) & 86-2.17(d), PRM-1 Section 2300	Mort. Amort.	001	45,650	97.17%	44,358	
	Mort. Amort.	001	62,057	97.17%		60,301
	Mort. Amort.	001	2,248	97.16%		2,184
3. MORTGAGE INSURANCE EXPENSE ALLOWANCES						
Mortgage insurance expense was reimbursed on a rate year basis in the promulgated rates. Audited rate year mortgage insurance expense varied from the mortgage insurance allowed in the promulgated rates, resulting in allowances. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.2, 2300, & 2304	Mort. Ins.	001	(198,233)	97.17%	(192,623)	
	Mort. Ins.	001	(197,040)	97.17%		(191,464)
	Mort. Ins.	001	(54,421)	97.16%		(52,875)
4. MOVABLE EQUIPMENT DEPRECIATION EXPENSE DISALLOWANCES						
Providers are required to provide adequate cost data that can be verified. The Facility was unable to provide full documentation for reported movable equipment depreciation expense. Consequently, the unsubstantiated expense was disallowed. Regulations: 10 NYCRR Sections 86-2.17(a) & 86-2.22, PRM-1 Sections 2102.3, 2300 & 2304	ME Depr.	001	151	97.17%	147	
	ME Depr.	001	303	97.17%		294
	ME Depr.	001	303	97.16%		294

REGAL HEIGHTS REHABILITATION AND HEALTH CARE CENTER
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION CENTER	COST DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
			2006	2007
Prop. Ins. 005	6,250	96.83%		6,052
Prop. Ins. 005	10,904	96.51%		10,523
Rent A 005	329	96.67%	318	
Rent B 043	211	100.00%	211	
Rent A 005	45,850	96.67%	44,323	
Rent C 005	43,606	96.83%		42,224
Rent B 005	56,869	96.51%		54,884
Rent B 043	1,070	100.00%	1,070	
Rent D 043	725	100.00%		725
Rent C 043	8,832	100.00%		8,832

5. PROPERTY INSURANCE EXPENSE DISALLOWANCES

The Facility's January 1, 2007 through December 31, 2008 promulgated 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 consequently 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: 10 NYCRR Sections 86-2.10(g), 86-2.17(a) & (d), PRM-1 Sections 2161 & 2806.2

6. RENT EXPENSE ADJUSTMENTS

(a) Rental expenses associated with maintenance agreements are considered operating expenses and should not be included in the property component of the rate. Consequently, maintenance costs such as sales tax, late fees, extra copies, and maintenance fees were disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a), 86-2.17(d) & 86-2.10(g), PRM-1 Section 2102.2, RHC Accounting and Reporting Manual

(b) Costs not related to patient care are costs that are not appropriate or necessary for patient care in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. Costs pertaining to automobiles used for personal use by the owners are not related to patient care, and therefore they were disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2102.3 & 2105.9

(c) The Facility reported various expenses in rent expense that were operating in nature. Maintenance and supplies expense are not includable in property costs. Consequently, these expenses were disallowed from the property component of the rate.

Regulations: 10 NYCRR Section 86-2.17(a), 455.6 & 455.37, PRM-1 Section 2806.2

REGAL HEIGHTS REHABILITATION AND HEALTH CARE CENTER
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION CENTER	COST DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
			2006	2007
Rent A 005	1,237	96.67%	1,196	
Rent B 043	11,643	100.00%	11,643	
Rent C 005	977	96.83%		946
Rent D 043	4,634	100.00%		4,634
Rent B 004	(246)	96.83%		(238)
Rent B 005	3,133	96.51%		3,024
Rent C 043	16,534	100.00%		16,534

6. RENT EXPENSE ADJUSTMENTS (CONTINUED)

(d) 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. The Facility reported rentals that were either out of the reporting period, included duplicate invoices, or lacked proper documentation. Equipment rentals were allowed to the extent adequate support documentation was provided. Consequently, adjustments were necessary.

Regulations: 10 NYCRR Sections 86-2.10(g), 86-2.17(a) & (d), PRM-1 Sections 2300 & 2304

7. ORGANIZATIONAL/START-UP EXPENSE DISALLOWANCES

The Facility amortized start-up costs over a five year period. This expense became fully amortized during rate year 2006. Consequently, any reimbursement for rates after the date of full reimbursement is not allowable. Consequently, this expense was disallowed in rate years 2006 and 2007.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Section 2132

Total Disallowances/(Allowances)

AUDITED PROPERTY EXPENSE

\$ 378,259	\$ 182,702	\$ 51,449
\$ 3,070,578	\$ 4,235,141	\$ 4,141,591