



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
90 Church Street, 14th Floor
New York, New York 10007

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

December 18, 2013

[REDACTED]
Shore View Nursing Home
c/o Sea Crest Office, Inc.
1 Linden Place, Suite 205
Great Neck, New York 11021

Re: Medicaid Rate Audit #11-4178
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 Shore View Nursing Home'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 audit 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 23, 2013, the findings in the final audit report remain identical to the draft audit report. However, calculation of the overpayment by the Bureau of Long Term Care resulted in a decrease of \$15,019 to the draft audit report overpayment of \$710,881. 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 \$695,862. This overpayment is subject to Department of Health ("DOH") and Division of Budget ("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 #11-4178
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 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.

Should you have any questions, please contact [redacted] or through email at [redacted]. Please refer to audit number 11-4178 in all correspondence.

Sincerely,

[redacted]
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Enclosure:

- 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)
- EXHIBIT V - Return On and Return Of Real Property Equity Disallowances
- EXHIBIT VI - Return on Average Equity Disallowance

CERTIFIED MAIL [redacted]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Shore View Nursing Home
c/o Sea Crest Office, Inc.
1 Linden Place, Suite 205
Great Neck, New York 11021

NPI #: [REDACTED]

PROVIDER #: [REDACTED]

AUDIT #11-4178

AMOUNT DUE: \$695,862

AUDIT	<input type="checkbox"/>	PROVIDER
TYPE	<input checked="" type="checkbox"/>	RATE
	<input type="checkbox"/>	PART B
	<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
GNARESP Corning Tower, Room 2739
File #11-4178
Albany, New York 12237-0048
5. If the provider number shown above is incorrect, please enter the correct number below.

[REDACTED]
CORRECT PROVIDER NUMBER

SHORE VIEW NURSING HOME - AUDIT #11-4178
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 - 02/28/06	\$233.51	\$230.28	\$3.23	13,559	\$ 43,796
03/01/06 - 03/31/06	231.26	228.04	3.22	7,043	22,678
04/01/06 - 05/31/06	230.76	227.54	3.22	13,727	44,201
06/01/06 - 08/31/06	230.82	227.60	3.22	21,410	68,940
09/01/06 - 11/30/06	231.46	228.24	3.22	20,677	66,580
12/01/06 - 12/31/06	231.19	227.96	3.23	6,946	22,436
01/01/07 - 03/31/07	238.11	235.63	2.48	19,460	48,261
04/01/07 - 06/30/07	236.81	234.34	2.47	19,964	49,311
07/01/07 - 08/31/07	235.01	232.54	2.47	14,272	35,252
09/01/07 - 12/31/07	235.01	232.54	2.47	29,371	72,546
01/01/08 - 03/31/08	241.00	238.35	2.65	20,801	55,123
04/01/08 - 06/30/08	236.40	233.75	2.65	21,087	55,881
07/01/08 - 12/31/08	241.39	238.74	2.65	41,833	110,857
TOTAL MEDICAID OVERPAYMENT					<u>\$ 695,862</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.

SHORE VIEW NURSING HOME - AUDIT #11-4178
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 79 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 - 02/28/06	\$233.59
03/01/06 - 03/31/06	231.35
04/01/06 - 05/31/06	233.34
06/01/06 - 08/31/06	230.91
09/01/06 - 11/30/06	231.55
12/01/06 - 12/31/06	231.27
01/01/07 - 03/31/07	238.19
04/01/07 - 06/30/07	236.90
07/01/07 - 08/31/07	235.10
09/01/07 - 12/31/07	235.10
01/01/08 - 03/31/08	241.10
04/01/08 - 06/30/08	236.50
07/01/08 - 12/31/08	241.48

* 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.

**SHORE VIEW NURSING HOME - AUDIT #11-4178
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

COST CENTER	RATE PERIODS		
	2006	2007	2008
	\$ 1,402,311	\$ 1,644,740	\$ 1,641,959

Property Expense Allowed per HE-12B
Less Disallowances/(Allowances):

1. RETURN ON AND RETURN OF EQUITY DISALLOWANCES

A proprietary residential health care facility is entitled to a return on and return of equity for capital invested in land, plant, fixed equipment and capital improvements associated with necessary and proper patient care activities. The audit of real property historical costs resulted in the following adjustments (See Exhibit V).

a) Additions to building costs used for calculating return on and return of equity included telephone expenses. According to Bureau of Long Term Care rate methodology, telephone expense is determined to be an operating expense. This expense is included in the formula to determine the base, mean, and ceiling prices used to establish the indirect expense corridor. Reimbursement of telephone expense in the property component of the rate amounts to duplicate reimbursement, consequently historical costs and return on and return of equity were adjusted to eliminate this expense.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d), 86-2.21, PRM-1 Sections 2100, and 2102.3

b) The audit revealed that 'Accumulated Reimbursement' for rate year 2007 was understated. This was corrected on audit, resulting in an adjustment to the return on and return of real property equity

Regulations: 10 NYCRR Sections 86-2.17(a) & (d) and 86-2.21

c) The audited asset additions for cost years 2005 and 2006 varied from amounts reported. An adjustment was made which resulted in changes to the return on and return of real property equity.

Regulations: 10 NYCRR Sections 86-2.7 & 2.21, PRM-1 Section 2300

2. RETURN ON AVERAGE EQUITY EXPENSE DISALLOWANCE

A proprietary residential health care facility is entitled to a reasonable return on average equity capital invested for necessary and proper patient care activities. The Facility's net investment changed as the result of audit adjustments to the historical cost of the building. In addition, Providers receiving payment on the basis of reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility was unable to provide documentation to substantiate an amount labeled as "Other" and included in the calculation of average equity on the HE-12B. Disallowance of this amount and the corresponding revision of the net investment resulted in the elimination of the Facility's return on average equity.

Regulation: 10 NYCRR Sections 86-2.7 & 2.28, PRM Section 2300

3. DISALLOWANCE OF DUPLICATE EQUIPMENT RENTAL EXPENSE

The Facility was reimbursed twice for the same copier rental expense. It was included in both Rent A and Rent D on Schedule VI of the 2008 HE-12B. The duplicate rental reimbursement was disallowed.

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

DESCRIPTION	COST CENTER	RATE PERIODS		
		2006	2007	2008
Return on Equity	001	475	27,087	20,787
Return of Equity	001	2,370	122,843	128,905
Average Equity	001	178,658		
Rent D	005			30,808

SHORE VIEW NURSING HOME - AUDIT #11-4178
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS		
			2006	2007	2008
4. SALES TAX DISALLOWANCES					
a) Providers receiving payment on the basis of reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. In addition, the cost data is required to be current, accurate, and in sufficient detail. The Provider calculated sales tax on total purchases including certain purchases not subject to sales tax. Audited sales tax expense varied from the expense allowed in the promulgated rates resulting in disallowances. Regulations: 10 NYCRR Sections 86-2.10(a) & 86-2.17(a), PRM-1 Sections 2300 & 2304	Sales Tax	005	80,912	79,793	63,725
b) 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. The reduced sales tax rate of zero percent applies to energy sources and services purchased for use at any long-term care facility which falls within the definition of a health related facility or nursing home as defined by public health law. Taxes for which there is an exemption available are not allowable for reimbursement purposes. Consequently, a disallowance was necessary. Regulations: TSB-A-90(60)S, Sales and Use-Rate of Tax-Residential Energy Sources-Long Term Treatment Facilities and PRM-1 Section 2122.2D	Sales Tax	005			15,681
5. AUTO EXPENSE DISALLOWANCES					
Providers are required to provide adequate cost data that can be verified on audit. 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 auto expenses. Consequently, disallowances were necessary. Regulations: 10 NYCRR Section 86-2.17(a)&(d), PRM-1 Sections 2102.3, 2105.9, 2300 & 2304	Rent B Auto Ins.	004 006			5,722 4,765
6. 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 such income. Therefore, an adjustment was made to correctly offset this income against interest expense. Regulation: 10 NYCRR Section 86-2.20(c)	Invest Inc.	003	10,935		

SHORE VIEW NURSING HOME - AUDIT #11-4178
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	COST CENTER	RATE PERIODS		
		2006	2007	2008
Other	006			5,783
		<u>\$ 304,158</u>	<u>\$ 229,723</u>	<u>\$ 243,388</u>
		<u>\$ 1,098,153</u>	<u>\$ 1,415,017</u>	<u>\$ 1,398,571</u>

7. REAL ESTATE TAX ADJUSTMENT

Providers receiving payments 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. Cost data must be current, accurate, and in sufficient detail. Audited real estate taxes varied from the real estate taxes allowed in the rate. The unsubstantiated difference was disallowed.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.2, 2300 & 2304

Total Disallowances/(Allowances)

TOTAL AUDITED PROPERTY EXPENSE

SHORE VIEW NURSING HOME - AUDIT #11-4178
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES

	RATE PERIODS		
	<u>2006</u>	<u>2007</u>	<u>2008</u>
<u>Return of Equity Calculation</u>			
Real Property Historical Cost per HE-12B	\$8,858,247	\$9,419,116	\$9,570,713
Audit Disallowances/(Allowances):			
1997 and 1999 Phone System - Additions	11,850	11,850	11,850
2005 Building - Office Additions Credit		14,811	14,811
2006 Building Additions Adjustment by the Facility			16,248
Total Disallowance	<u>11,850</u>	<u>26,661</u>	<u>42,909</u>
Audited Historical Cost	\$8,846,397	\$9,392,455	\$9,527,804
Less: Accumulated Reimbursement	<u>5,908,638</u>	<u>6,496,190</u>	<u>7,075,443</u>
Audited Net Equity	\$2,937,759	\$2,896,265	\$2,452,361
Remaining Useful Life	<u>5</u>	<u>5</u>	<u>4</u>
Audited Return of Equity	\$ 587,552	\$ 579,253	\$ 613,090
Promulgated Return of Equity	<u>589,922</u>	<u>702,096</u>	<u>739,995</u>
Disallowance/(Allowance)	<u>\$ 2,370</u>	<u>\$ 122,843</u>	<u>\$ 126,905</u>
<u>Return on Equity Calculation</u>			
Audited Net Equity	\$2,937,759	\$2,896,265	\$2,452,361
Less: ½ Current Return of Equity	<u>293,776</u>	<u>289,627</u>	<u>306,545</u>
Audited Net Investment	\$2,643,983	\$2,606,638	\$2,145,816
Rate of Return	<u>4.45%</u>	<u>4.90%</u>	<u>4.68%</u>
Audited Return on Equity	\$ 117,657	\$ 127,725	\$ 100,424
Promulgated Return on Equity	<u>118,132</u>	<u>154,812</u>	<u>121,211</u>
Disallowance/(Allowance)	<u>\$ 475</u>	<u>\$ 27,087</u>	<u>\$ 20,787</u>

SHORE VIEW NURSING HOME - AUDIT #11-4178
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
RETURN ON AVERAGE EQUITY DISALLOWANCE

	<u>RATE PERIOD</u>
Return on Average Equity	<u>2006</u>
Average Equity per HE-12B	\$ 4,751,561
Audit Disallowance:	
Removal of "Other" Additions to Equity	7,568,953
	<hr/>
Audited Average Equity	\$ (2,817,392)
Less: Audited Net Investment	<u>2,643,983</u>
Audited Remaining Equity	\$ (5,461,375)
Rate of Return	<u>3.76%</u>
Equity Returned Per Audit	0
Equity Returned HE-12B	<u>178,658</u>
Disallowance/(Allowance)	<u><u>\$ 178,658</u></u>