



STATE OF NEW YORK  
OFFICE OF THE MEDICAID INSPECTOR GENERAL  
445 Hamilton Avenue, Suite 508  
White Plains, New York 10601

ANDREW M. CUOMO  
GOVERNOR

JAMES C. COX  
MEDICAID INSPECTOR GENERAL

December 5, 2013

[REDACTED]  
Gold Crest Care Center  
2316 Bruner Avenue  
Bronx, New York 10469

Re: Medicaid Rate Audit #12-3612  
NPI Number: [REDACTED]  
Provider Number: [REDACTED]

Dear [REDACTED]

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (OMIG) audit of Gold Crest Care Center's (Facility) Medicaid rates for the rate period January 1, 2007 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 3, 2013, 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 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 \$487,910. 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, 2008 that utilized the February 7, 1996 through February 6, 1997 base period for operating expense. Any overpayment resulting from operating expense disallowances in the February 7, 1996 through February 6, 1997 base period report for rates subsequent to December 31, 2008 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 2739  
File #12-3612  
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 12-3612 in all correspondence.

Sincerely,

[REDACTED]

Bureau of Rate Audit  
Division of Medicaid Audit  
Office of the Medicaid Inspector General

Enclosure

- 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 - Operating Expense Disallowance
  - EXHIBIT IV - Property Expense Disallowances/(Allowances)
  - EXHIBIT V - Per Diem Disallowances
  - EXHIBIT VI - Return on and Return of Real Property Equity Disallowances

CERTIFIED MAIL [REDACTED]  
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**

Gold Crest Care Center  
2316 Bruner Avenue  
Bronx, New York 10469

**AMOUNT DUE: \$487,910**

**NPI** [REDACTED]  
**PROVIDER** [REDACTED]

**AUDIT #12-3612**

**AUDIT  
TYPE**

**PROVIDER**  
 **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 #12-3612  
Albany, New York 12237-0048

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

[REDACTED]  
**CORRECT PROVIDER NUMBER**

**GOLD CREST CARE CENTER - AUDIT #12-3612  
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 IV COMMENTS**

**Adjustment #2 (b) – Equipment Rental Disallowances**

**Facility Comment**

The facility wishes to take exception to the proposed adjustment for the rate years 2007 and 2008. The equipment is leased by the facility. The facility has provided a copy of the lease as well as proof of payments to the auditors. The auditors have visually inspected the equipment in the basement of the facility. If the auditors feel that this represents a duplication of expense reported in the base year as an operating component expenses then the facility suggests that the adjustment that should be proposed is the elimination of the operating component expenses for the years 2007 and subsequent. This precedent has been established many times in the past in prior audits, most notably as it relates to a change in the reporting of sales tax and the facility hereby requests that be the manner in which this adjustment is handled.

**OMIG Response**

According to Bureau of Long Term Care methodology, nursing homes have the option to receive reimbursement for all sales tax either in the operating or in the property component of the rate. However, such an option is not given to the nursing homes regarding laundry and linen costs. Hence, disallowing the laundry rental expense which duplicated what the Facility was already receiving in the operating portion of its rate for laundry and linen costs was in accordance with BLTCR methodology for laundry and linen costs.

**Disposition: The draft audit report disallowance remains the same.**

**Adjustment #5 (b) – Sales Tax Disallowances**

**Facility Comment**

The facility wishes to take exception to the proposed adjustment for the rate years 2007 and 2008. The sales tax was paid by the facility. It was audited and documented by the facility. The audit adjustments have refused to recognize this cost paid as a component of the historical cost as well as a component of the sales tax. The facility feels that the costs should be allowed as a component of the sales tax expenses paid, reported and audited.

**OMIG Response**

In accordance with Bureau of Long Term Care methodology, the leasing of leasehold improvements is not recognized for reimbursement purposes. Consequently, the sales tax on the lease payment which was paid as part of the lease payment was disallowed.

**Disposition: The draft audit report disallowance remains the same.**

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT**

<u>RATE PERIOD</u>	<u>ISSUED PART B &amp; D NON-ELIGIBLE RATES*</u>	<u>FINAL PART B &amp; D NON-ELIGIBLE RATES</u>	<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
01/01/07 - 03/31/07	\$209.69	\$206.25	\$3.44	12,091	\$ 41,593
04/01/07 - 06/30/07	208.56	205.12	3.44	12,198	41,961
07/01/07 - 08/31/07	206.60	203.16	3.44	8,172	28,112
09/01/07 - 12/31/07	206.60	203.16	3.44	16,107	55,408
01/01/08 - 03/31/08	214.78	208.20	6.58	12,105	79,651
04/01/08 - 06/30/08	211.35	204.79	6.56	12,268	80,478
07/01/08 - 12/31/08	214.72	208.16	6.56	24,498	160,707
<b>TOTAL MEDICAID OVERPAYMENT</b>					<b><u>\$ 487,910</u></b>

\* Any differences between these rates and the rates listed in Exhibit II of this audit 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.

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**SUMMARY OF MEDICAID RATES AUDITED**

The Facility's Medicaid utilization was approximately 90 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 audit report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

<b><u>RATE PERIOD</u></b>	<b><u>ISSUED MEDICARE PART B &amp; D NON-ELIGIBLE RATES *</u></b>
01/01/07 - 03/31/07	\$ 209.69
04/01/07 - 06/30/07	208.56
07/01/07 - 08/31/07	206.60
09/01/07 - 12/31/07	206.60
01/01/08 - 03/31/08	214.78
04/01/08 - 06/30/08	211.35
07/01/08 - 12/31/08	214.72

\* 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.

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**OPERATING EXPENSE DISALLOWANCE**

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

**SALES TAX DISALLOWANCE**

For rate years January 1, 2007 through December 31, 2008, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. Since sales tax is included in Facility's base year (2/7/96 through 2/6/97) and since this year is also the basis for the operating portion of the January 1, 2007 through December 31, 2008 rates, inclusion of sales tax in the capital portion of the rate resulted in duplicate reimbursement. In order to eliminate the duplication, the following disallowance to the operating component of the January 1, 2007 through December 31, 2008 rates was necessary. The Facility is reimbursed the base price per diem for the direct and indirect components of the rates; therefore, no adjustment is necessary for the direct and indirect components.

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

Total Disallowances/(Allowances)

**TOTAL AUDITED OPERATING EXPENSE BY COMPONENT**

COST CTR.	DESCRIPTION	OPERATING EXPENSE COMPONENT		
		DIRECT	INDIRECT	NON- COMP.
006	Utilities			9,855
		\$ -	\$ -	\$ 9,855
		\$ -	\$ -	\$ 305,041

\$ 314,896

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

COST CTR.	RATE PERIODS	
	2007	2008
	\$ 998,903	\$ 1,247,894

**DESCRIPTION**

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

**1. CAPITALIZED LEASE EQUIPMENT ADJUSTMENTS**

a) The Facility reported several capitalized leases of leasehold improvements in its RHCF-4 reports. The promulgated rates included the asset historical costs in the return on and return of equity calculations, however, both the lease payments and depreciation for these improvements were reimbursed as well. Based on Bureau of Long Term Care Reimbursement rate methodology, only the historical costs should have been included in the rate and a return on equity and return of equity given. The reimbursement of the leasehold improvement depreciation and the lease payments represent duplicate reimbursement. Consequently, disallowances were made to eliminate the duplication.  
**Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2102.3**

b) Certain movable equipment lease expense was excluded from the rate calculation. Consequently, an allowance was necessary.  
**Regulation: 10 NYCRR Section 86-2.22(a)**

**2. EQUIPMENT RENTAL DISALLOWANCES**

a) The Facility did not provide documentation for reported lease payments on luxury automobiles, nor did it provide documentation to support the relationship of the expense to patient care. Providers receiving payment based on reimbursable costs must provide adequate cost data that can be verified on audit. Furthermore, costs not related to patient care are costs that are not appropriate or necessary and proper 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 luxury automobiles are not related to patient care. These reported costs were disallowed.  
**Regulations: 10 NYCRR Sections 86-2.7 and 86-2.17(a), PRM-1 Sections 2102.3, 2300 and 2304**

b) The Facility reported and was reimbursed for rental expense on laundry equipment in the capital component of the January 1, 2007 through December 31, 2008 rates. The operating component of these rates is based on the Facility's February 7, 1996 through February 6, 1997 base period costs. During the base period, the Facility's laundry services were provided entirely by an outside laundry service offsite. Laundry service charges at the time would have included a component for equipment usage. Currently, the Facility continues to contract with an outside vendor for laundry services. However, the Facility now leases laundry equipment and the laundry service is provided in-house. Since a component for laundry equipment expense is included in the Facility's base year (2/7/96 through 2/6/97) and since this year is also the basis for the operating portion of the January 1, 2007 through December 31, 2008 rates, inclusion of laundry equipment rental expense in the capital portion of the rate resulted in duplicate reimbursement. In order to eliminate the duplication, laundry equipment rental expense was disallowed.  
**Regulations: 10 NYCRR Sections 86-2.17(a) and (d)**

c) Telephone rental expense was included in the capital component of the Facility's rate. It is the Commissioner's determination 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 expense was disallowed from the capital component.  
**Regulation: 10 NYCRR Section 86-2.17(d)**

DESCRIPTION	COST CTR.	RATE PERIODS	
		2007	2008
Bldg. Interest	003		42,000
Bldg. Depr	001		64,348
Rent A	002		99,135
Rent A	002	(18,698)	
Rent B	005	19,283	22,630
Rent C	009	49,200	49,200
Rent B	005	14,545	15,696

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

	DESCRIPTION	COST CTR.	RATE PERIODS	
			2007	2008
<b>3. PROPERTY INSURANCE DISALLOWANCE</b>				
The Facility's 2007 rate included an insurance premium for crime insurance. Crime insurance does not relate to the loss of or damage to the provider's physical real property and consequently is only includable in the operating component of the rate. Since the insurance premium is not allowable as property insurance, it was disallowed. Regulations: 10 NYCRR Sections 86-2.17(a) and (d), PRM-1 Sections 2161(1) and 2806.2				
	Prop Ins	005	1,001	
<b>4. RETURN ON AND OF EQUITY DISALLOWANCES</b>				
The real property historical costs and cumulative real property reimbursement used to calculate the return of equity and return on equity in the 2007 and 2008 rates were adjusted to reflect the disallowance of movable equipment additions and the allowance of certain leasehold improvement additions. The return on equity and return of equity were adjusted accordingly. Refer to Exhibit VI for details. Regulations: 10 NYCRR Sections 86-2.17 (a) and (d) and 86-2.21				
	Ret. On Equity	001	5,419	3,022
	Ret. On Equity	003		18,449
	Ret. Of Equity	001	24,574	
<b>5. SALES TAX DISALLOWANCES</b>				
a) The Facility reported and was reimbursed sales tax on capitalized leases for movable equipment in both the lease payments and sales tax expense. Consequently, disallowances were made to eliminate the duplicate reimbursement. Regulations: 10 NYCRR Sections 86-2.17(a) and (d), PRM-1 Section 2102.3				
	Sales Tax	005	1,371	2,753
b) The Facility was reimbursed for sales tax on capitalized leases of leasehold improvements in both the 2007 and 2008 rates. In accordance with Bureau of Long Term Care methodology, the leasing of leasehold improvements is not recognized for reimbursement purposes. Therefore, the sales tax on the lease payments was disallowed. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2102.3				
	Sales Tax	005	16,483	19,441
<b>6. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCES</b>				
Providers receiving payment based on reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility was unable to fully document working capital interest expense. In addition, the Facility identified the loan as a non-amortizing loan. It has been determined by the Commissioner that interest expense related to working capital loans that are considered "interest only" is not reimbursable for Medicaid purposes. Consequently, a disallowance was necessary. Regulations: 10 NYCRR Sections 86-2.17(a) and (d), 86-2.20 and 451.71, PRM-1 Sections 202.1, 2300 and				
	WCI	005	28,547	
<b>7. INTEREST INCOME OFFSET</b>				
Reported investment income was offset against working capital interest expense in rate year 2007 and lease interest expense in rate year 2008. The income offsets were reversed based on the disallowance of working capital interest expense (adjustment #6) and the disallowance of lease interest expense (adjustment #1a). Regulations: 10 NYCRR Sections 86-2.17, 86-2.20(b) and (c)				
	WCI	005	(14,669)	
	Other int	003		(23,425)
<b>Total Disallowances/(Allowances)</b>			\$ 127,056	\$ 313,249
<b>TOTAL AUDITED PROPERTY EXPENSE</b>			\$ 871,847	\$ 934,645

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**PER DIEM DISALLOWANCES**

**REDUCTION IN OBRA AND GLOVES PER DIEM ADD-ON ADJUSTMENTS**

The Facility received OBRA, and Gloves per diem add-ons in its 1/1/2007 through 12/31/2008 Medicaid rates. The OBRA per diem was added to recognize various Federally mandated direct expenses for facilities with operating base periods prior to 4/1/1991. The Gloves per diem was added to recognize a Federal mandate for glove supplies for facilities with operating base periods prior to 4/1/1994.

This facility's operating base period covered 2/7/1996 through 2/6/1997, so the increased nursing costs and Federally mandated expenditures were included in its base period direct operating costs. Therefore, the per diem add-ons for this facility should only have replaced amounts that were cut by direct cost ceiling limitations in the applicable rate calculations; however, the Facility did not have ceiling limitations. Consequently, OBRA and Gloves per diem add-ons were disallowed.

**Regulations: 10 NYCRR Sections 86-2.10(r), 86-2.10(u), and 86-2.17(a), Bureau of Long Term Care Reimbursement Rate Setting Policy**

	<b>RATE PERIODS</b>						
	<u>1/1/07</u>	<u>4/1/07</u>	<u>7/1/07</u>	<u>9/1/07</u>	<u>1/1/08</u>	<u>4/1/08</u>	<u>7/1/08</u>
OBRA Per Diem Adjustment	\$ 0.83	\$ 0.83	\$ 0.83	\$ 0.83	\$ 0.85	\$ 0.84	\$ 0.84
Gloves Per Diem Adjustment	0.28	0.28	0.28	0.28	0.29	0.28	0.28
<b>Total Per Diem Add-Ons</b>	<b>\$ 1.11</b>	<b>\$ 1.11</b>	<b>\$ 1.11</b>	<b>\$ 1.11</b>	<b>\$ 1.14</b>	<b>\$ 1.12</b>	<b>\$ 1.12</b>

**GOLD CREST CARE CENTER - AUDIT #12-3612**  
**RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008**  
**RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES**

	<b>RATE PERIODS</b>	
	<b><u>2007</u></b>	<b><u>2008</u></b>
<b><u>Return of Equity Calculation</u></b>		
Real Property Historical Cost per HE-12B	\$ 3,904,145	\$ 4,105,342
Audit Disallowances/(Allowances)	<u>122,869</u>	<u>98,369</u>
Audited Historical Cost	\$ 3,781,276	\$ 4,006,973
Less: Accumulated Reimbursement	<u>2,465,077</u>	<u>2,728,317</u>
Audited Net Equity	\$ 1,316,199	\$ 1,278,656
Remaining Useful Life	<u>5</u>	<u>4</u>
Audited Return of Equity	\$ 263,240	\$ 319,664
Promulgated Return of Equity	<u>287,814</u>	<u>338,113</u>
Disallowance/(Allowance)	<u>\$ 24,574</u>	<u>\$ 18,449</u>
<b><u>Return on Equity Calculation</u></b>		
Audited Net Equity	\$ 1,316,199	\$ 1,278,656
Less: ½ Current Return of Equity	<u>131,620</u>	<u>159,832</u>
Audited Net Investment	\$ 1,184,579	\$ 1,118,824
Rate of Return	<u>4.90%</u>	<u>4.68%</u>
Audited Return on Equity	\$ 58,044	\$ 52,361
Promulgated Return on Equity	<u>63,463</u>	<u>55,383</u>
Disallowance/(Allowance)	<u>\$ 5,419</u>	<u>\$ 3,022</u>