



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

February 26, 2014

[REDACTED]
Daughters of Jacob Nursing Home
1160 Teller Avenue
Bronx, New York 10456

Re: Medicaid PRI Audit #09-4639
NPI Number: [REDACTED]
Provider Number: [REDACTED]

Dear [REDACTED]

This is the final audit report of findings with regard to the Office of the Medicaid Inspector General's ("OMIG") Patient Review Instruments ("PRI") audit of Daughters of Jacob Nursing Home ("Facility") for the audit period January 1, 2005 through December 31, 2006. In accordance with 18 NYCRR Section 517.6, this final audit report represents the OMIG's final determination on issues raised in the draft audit report.

Since you did not respond to our revised draft audit report dated October 21, 2013, the findings in the final audit report remain identical to the revised draft audit report. The OMIG has attached the sample detail for the paid claims determined to be in error.

The findings applicable to the July 1, 2006 through September 30, 2006 Medicaid rates resulted in a Medicaid overpayment of \$21,466 as detailed in Attachment A. 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 amount will be resolved with the Facility by the OMIG Bureau of Collections Management. The finding explanation, regulatory reference, and applicable adjustment can be found in the exhibits following Attachment A.

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 #09-4639
Albany, New York 12237-0048

OPTION #2: Enter into a repayment agreement with the OMIG. 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 regarding the above, please contact [redacted] at [redacted] or through email at [redacted]

Sincerely,

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

[redacted]
Attachments:

- ATTACHMENT A - Calculation of Medicaid Overpayment
- ATTACHMENT B - Change in RUG Counts for PRIs submitted on July 10, 2006
- ATTACHMENT C - Detailed Findings by Sample Number
- ATTACHMENT D - Detailed Findings by Disallowance

CERTIFIED MAIL [redacted]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

██████████
Daughters of Jacob Nursing Home
1160 Teller Avenue
Bronx, New York 10456

AMOUNT DUE: \$21,466

NPI #: ██████████

PROVIDER #: ██████████

AUDIT #09-4639

**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:

██████████
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #09-4639
Albany, New York 12237-0048

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

[]

CORRECT PROVIDER NUMBER

ATTACHMENT A

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 DAUGHTERS OF JACOB NURSING HOME
 AUDIT #09-4639
 CALCULATION OF MEDICAID OVERPAYMENT

<u>Service</u>	<u>Effective Period</u>	<u>Part B Non-Elig.</u>		<u>Part B-Elig</u>		<u>Medicaid Days</u>	<u>Medicaid Impact</u>	
		<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>			<u>Difference</u>
NF	07/01/06 - 09/30/06	221.51	220.92	220.07	219.48	0.59	36383	\$ 21,466
TOTAL MEDICAID OVERPAYMENT							\$	<u>21,466</u>

NOTE: Impact of the Dementia Per Diem Calculation handled as per diem disallowance on Schedule VII

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 DAUGHTERS OF JACOB NURSING HOME
 CHANGE IN RUG CATEGORIES
 QUARTER ENDED JULY 10, 2006

RUG CATEGORY	CHANGE IN RUG CATEGORY			
	REPORTED INCREASE	DECREASE	ADJUSTED	
BA	0			0
BB	0			0
BC	0			0
CA	13		1	12
CB	26	3		29
CC	13		2	11
CD	5			5
PA	105	1		106
PB	23	1		24
PC	115			115
PD	24			24
PE	9			9
RA	19			19
RB	81		2	79
SA	6			6
SB	16			16
TOTAL	455	5	5	455

Dementia Patient Per Diem Calculation

CA	0			0
BA	0			0
PA	48		2	46
PB	17		1	16
TOTAL	65	0	3	62

OFFICE OF THE MEDICAID INSPECTOR GENERAL
REVIEW OF PATIENT REVIEW INSTRUMENT
DAUGHTERS OF JACOB NURSING HOME
AUDIT #09-4639

DETAILED FINDINGS

Sample#	DOB	Initials	PRIDate	Reported RUG		Derived RUG		Reported RUG Weight		Derived RUG Weight		Disallow Primary Problem	Disallow Physician Visits	Disallow Tolerating	Disallow Transfer	Disallow Dementia Add-on	Disallow PT Level	Disallow Oxygen	Disallow OT Level	Disallow Suctioning	
				Reported RUG	Derived RUG	Reported RUG Weight	Derived RUG Weight														
51			7/4/2006	PC	PB	1.03	0.83														
52			7/5/2006	PC	PC	1.03	1.03							1							
53			7/5/2006	PC	PC	1.03	1.03						1								
54			7/10/2006	PC	PC	1.03	1.03														
55			7/10/2006	PC	PC	1.03	1.03						1								
56			7/10/2006	SA	SA	1.51	1.51														
57			7/10/2006	PB	PB	0.83	0.83								1						
58			7/10/2006	CA	PA	0.7	0.55			1											
59			7/3/2006	PA	PA	0.55	0.55														
60			7/3/2006	PA	PA	0.55	0.55			1											
61			7/4/2006	PA	PA	0.55	0.55														
62			7/6/2006	PA	PA	0.55	0.55														
63			7/10/2006	PA	PA	0.55	0.55														

Totals 10 7 6 5 3 3 2 2 1 1

DAUGHTERS OF JACOB NURSING HOME DETAILED FINDINGS

PRI FINDINGS**Sample Selection****Suctioning - General (Daily)**

PRI instructions/clarifications state, *"For medical treatments having a daily frequency requirement, treatments must be provided every day of the four week period."*

10 NYCRR Section 86-2.30 (II) 18B

17

In 1 instance, documentation did not support the daily frequency requirement for suctioning.

Oxygen - (Daily)

PRI instructions/clarifications state *"For medical treatments having a daily frequency requirement, treatments must be provided every day of the four week period."*

10 NYCRR Section 86-2.30 (II) 18C

In 2 instances, documentation did not support the daily frequency requirement for oxygen.

17, 39

Eating

PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 19

Level 3 eating continual help *"means that the patient requires a staff person's continual presence and help for reasons such as: patient tends to choke, has a swallowing problem, is learning to feed self, or is quite confused and forgets to eat."*

In 5 instances, documentation did not support continual help with eating.

13, 14, 21, 51, 52

Level 4 eating is *"totally fed by hand: patient does not manually participate."*

In 1 instance, documentation did not support that the resident was totally fed by hand.

19

Transfer

The PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 21

Level 4 transfer *"requires two people to provide constant supervision and/or physically lift. May need lifting equipment. Documentation must support a logical medical reason why the patient required two people to transfer."*

In 2 instances, documentation did not support the resident; required two people or the use of lifting equipment to transfer. 7, 14

In 1 instance, documentation did not support a logical medical reason why the patient required two people to transfer. 52

Toileting

The PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 22

Level 5 toileting resident is *"incontinent of bowel and/or bladder but is taken to a bathroom every two to four hours during the day and as needed at night."* Additionally, PRI clarifications state that *"the resident's care plan must establish a toileting assistance program that is based on an assessment of the resident's needs. The assessment should establish the needs of the resident which lead to the development of the program."* To meet Toileting Level 5 there must be a *"care plan established for the resident based on an assessment."* The toileting schedule must include *"the name or initials of the health care worker performing the toileting assistance and the specific time the toileting assistance was provided must be present in each instance assistance is provided."*

In 5 instances, documentation did not support an individualized toileting schedule, the specific time the resident was toileted, the toileting schedule contained blanks, and/or or the toileting schedule contained intervals greater than four hours. 9, 48, 49, 53, 55

Physical Therapy

PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (V) 27A

PRI instructions/clarifications state *"there must be an order for restorative therapy."*

In order for therapy to qualify as restorative *"there is positive potential for improved functional status within a short and predictable period of time"...* The qualifier for maintenance therapy is *"to maintain and/or retard deterioration of current functional/ADL status."*

In 1 instance, documentation did not support the positive potential for improvement within a short and/or predictable period of time. 14

PRI instructions/clarifications also state *"in order for therapy to qualify as restorative, treatment is provided at least five days per week and 2.5 hours per week."*

In 1 instance, documentation did not support treatment five days/ 2.5 hours per week. 45

PRI instructions/clarifications state *"in order for therapy to qualify as restorative the resident must continue to show improvement during treatment."*

In 1 instance, documentation did not support continued improvement in ADL/functional status through the past 28 days. 14

Occupational Therapy

PRI instructions/clarifications state:

Title 10 NYCRR Section 86-2.30 (V) 27A

PRI instructions/clarifications state *"there must be an order for restorative therapy."*

In order for therapy to qualify as restorative therapy *"there is positive potential for improved functional status within a short and predictable period of time"...* Qualifier for maintenance therapy is *"to maintain and/or retard deterioration of current functional/ADL status."*

In 1 instance, documentation did not support the positive potential for improvement within a short and/or predictable period of time. 14

PRI instructions/clarifications further state *"in order for therapy to qualify as restorative the resident must continue to show improvement during treatment."*

In 1 instance, documentation did not support continued improvement in ADL/functional status through the past 28 days. 14

Number of Physician Visits

The PRI instructions/clarifications state that allowable physician visits are those in which *"the patient has a medical condition that (1) is unstable and changing or (2) is stable, but there is high risk of instability."*

10 NYCRR Section 86-2.30 (V) 28

In 7 instances, documentation did not support the number of physician visits claimed were for unstable or potentially unstable conditions. 6, 7, 13, 17, 43, 58, 60

Primary Medical Problem

The PRI instructions/clarifications state: *"The primary medical problem should be selected based on the condition that has created the most need for nursing time during the past four weeks."*

10 NYCRR Section 86-2.30 (I) (VI) 30

In 10 instances, documentation did not support that the primary medical problem (ICD-9 code) was based on the condition that created the most need for nursing time. 6, 12, 13, 15, 32, 33, 34, 35, 36, 37

Dementia Add-on

PRI instructions/clarifications state: *"Facilities to whom the additional amount is paid shall demonstrate and document positive outcomes from the implementation or continuation of programs to improve the care of eligible dementia patients."*

10 NYCRR Section 86-2.10 (o)

In 3 instances, there was no documentation found in the record of activities that meet these criteria. 57, 60, 62

RUGS-II Classifications Overturned

In 7 instances, the RUG-II classifications were overturned. 14, 21, 45, 48, 49, 51, 58

10 NYCRR Section 86-2.11