NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

THOMAS R. MEYER
Acting Medicaid Inspector General

February 11, 2015

[redacted]
Our Lady of Peace Nursing Care Residence
8674 Hennepin Avenue
Niagara Falls, New York 14304

Re: Medicaid Rate Audit #10-6959
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 Our Lady of Peace Nursing Care Residence's (the "Facility") Medicaid rates for the rate period June 11, 2003 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, 2014, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A) and the report has been either revised accordingly and/or amended to address your comments (see Attachment B). Consideration of your comments resulted in an overall reduction of $326,024 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. The Medicaid overpayment associated with OMIG adjustments was $1,506,908. However, this audit also processed Bureau of Long Term Care Reimbursement appeals that resulted in an amount due to the facility of $154,685. Consequently, based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $1,352,223. The appropriate rate sheets to support the amount due have been sent to Mr. Thomas LoStracco. 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.

The overpayment does not reflect the impact on rates subsequent to December 31, 2008 that utilized the June 11, 2003 through June 10, 2004 base period for operating expense. Any overpayment resulting from operating expense disallowances in the June 11, 2003 through June 10, 2004 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:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #10-6959
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 50% withhold after 20 days until an agreement is established. 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. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against any amount owed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days at the following:

Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

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 at or through email at . Please refer to audit number 10-6959 in all correspondence.

Sincerely,

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

Enclosure

ATTACHMENT A - Facility Draft Report Comments and OMIG Response
ATTACHMENT B - Summary of Changes from Draft Report to Final Report
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)

cc:
Enclosure – Rate Sheets
CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Our Lady of Peace Nursing Care Residence
5285 Lewiston Road
Lewiston, New York 14092-1942

AMOUNT DUE: $1,352,223

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

AUDIT #10-6959

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 #10-6959
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

OUR LADY OF PEACE NURSING CARE RESIDENCE – AUDIT #10-6959
FACILITY DRAFT AUDIT 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 audit report adjustments after consideration of the Facility's draft audit report response comments.

See Attachment B for adjustment changes included in the final audit report.

EXHIBIT III COMMENTS

Adjustment #1 – Director of Volunteers Expense Allowance and Operating Expense Appeal Items

Facility Comment

We had presented OMIG with several appeals which included Appeal #634901 and Appeal #731802. Of the numerous items of appeal contained within these two (2) appeals, two (2) were acknowledged, accepted and addressed by the OMIG auditors and we've submitted letters of withdrawal for those two (2) items at OMIG's request. There is a history of rate appeals being accepted and processed concurrently with OMIG audit findings. Therefore, to be consistent with past treatment of countless other skilled nursing facilities, we are requesting that all of these appeals be acknowledged, accepted and processed as offsets against OMIG's rate audit findings. We've included additional language regarding certain sections of these appeals as it may be helpful to OMIG to better understand the basis of those appeals. Many of these appeal items relate to our base period. The New York State Department of Health is not actively processing these appeals and we see this as our only opportunity to have these appeal items corrected.

OMIG Response

We have reviewed all items listed in Appeals #634901 and #731802.

The Appeal #634901 for director of volunteers' expense was addressed in adjustment 1.

The Appeal #634901 for property taxes in the non-comparable component of the rate was partially addressed in adjustment 2(e). The allowance of property taxes requested by the facility was for water and sewer charges included on the real estate tax bill. The audit transferred water and sewer charges included in indirect expenses to non-comparable expense. The increase in expense for the full taxable assessment after the base year involved rate setting methodology and the Bureau of Long Term Care Reimbursement (BLTCR) discretion. Such issues are outside OMIG's authority, and can only be resolved by the BLTCR.

The Appeal #634901 for the recalculation of the input price adjustment factor calculation involved rate setting methodology and the BLTCR discretion. Such issues are outside OMIG's authority, and can only be resolved by the BLTCR.

Disposition: The draft audit report remains unchanged.

Adjustment #4 – Laboratory and Radiology Expense Disallowances

Facility Comment

Our facility offers Laboratory and Radiology services to our entire population as needed. This is stated on Part I-1, Patient Services Provided, 2003 RHCF-4 Medicaid Cost Report. This was true in cost report years 2004-2008 as well and is supported by the attached documentation.

Our facility's 2003 Medicaid Rate Sheet, issued and paid by the New York State Department of Health, clearly indicates that Ancillaries, inclusive of "Lab + X-Ray Services", are included in our All-Inclusive Rate to be paid for our Medicaid population. This is true for rate years 2004-2008 as well and is supported by the attached documentation. There are seven (7) included ancillaries specifically noted on the 2003 Rate Computation Sheet, although OMIG apparently selectively sampled and disallowed one (1) of them with bias.

In conversation with facility management, OMIG indicated that this disallowance was partially based upon the Odd Fellow and Rebekah hearing decision. We disagree with the defendant's argument in that decision; that the costs were allowable even though they were only related to Medicare.

OMIG is disallowing these costs because of the guidelines outlined in Part 86-2.17(d) which state that allowable costs shall not include expenses or portion of expenses reported by individual RHCF's which are determined by the commissioner not to be reasonably related to the efficient production of services because of the nature or amount of the particular item.

In Part 86-2.10(f)(2)(i) & (iv) these sections of the regulations state that the costs related to both laboratory services and radiology are functional cost centers which are included in the non-comparable component of the Medicaid rate. Therefore, we do not believe that OMIG's interpretation and the hearing officer's decision of the Odd Fellow and Rebekah case is related to this disallowance since separating distinct costs from the average rate is a direct violation of the NYS Medicaid methodology.

New York State Medicaid rate methodology does not have distinct bed and distinct cost; the reimbursement formula is to use the allowable costs of all patient classifications divided by the total patient days in the facility, which results in an average rate which is utilized as the Medicaid rate. This rate is broken out with an operating component and a property component. By eliminating operating costs from the rate formula because they are related to a certain payor classification, OMIG is modifying the methodology and making the Medicaid rate a hybrid formula by excluding Medicare costs from the average while including the Medicare patient days in the divisor, thus making the average rate lower. If OMIG takes this position that all Medicare related costs must be eliminated from the operating component of the base, then they must also eliminate all Medicare patient days from the calculation which is not in compliance with the Medicaid rate methodology.

Our position is that the Medicaid Operating Rate is an All-Inclusive Average Rate that consists of all costs and all days for all payors. Selectively disallowing some expenses under the premise the expenses pertain solely to a non-Medicaid population (sample inclusive of only the Base Period) invalidates the All-Inclusive Rate formulas. If OMIG's intention is to perform an annual cost segregation study (utilizing -countless pages of financial and statistical data and hundreds of hours of analysis) and remove all costs pertaining to the non-Medicaid population from the numerator, then OMIG must also remove all non-Medicaid patient days from the denominator. OMIG, through its finding, appears to be indicating that the facility should have been paid a distinct rate for each of its non-Medicaid resident populations. This specifically goes against the New York State Medicaid rate methodology.

Furthermore, assuming the sample tested from the base period lead OMIG to believe that only a non-Medicaid population was being served, reaching a conclusion that subsequent years' expenses pertained solely to a non-Medicaid population cannot be determined unless OMIG conducts the same sampling for those years as well.

We are requesting that the Laboratory and Radiology disallowances be restored from OMIG's audit findings.

OMIG Response

Based on our subsequent review of laboratory billings, it was determined that the third party laboratory did not bill Medicaid separately for services provided to the Facility's residents. Therefore, the laboratory services disallowance has been eliminated.

The Bureau of Long Term Care Reimbursement does, in fact, make distinctions based on recipient eligibility in determining reimbursement rate methodology. The HE-12B rate computation sheet clearly indicates the ancillary services for which the Facility is authorized by the Department of Health to claim reimbursement from the Medicaid program. Such services are provided and billed to Medicare and Medicaid separately. Furthermore, for Medicaid patients, coinsurance and deductibles for such services in the operating base period were billed by the third party radiology provider to the Medicaid program separately. Either such services are reimbursed in the Medicaid rate or they are billed to Medicaid separately outside of the Medicaid rate. There can be no combination of both.

In addition, as slated in the draft audit report, the "expense" recorded were for the radiology Medicare Part A "technical component" portion of the charges. Payment to the third party radiologist is merely a pass through of the Medicare technical component income (billed and received by the Facility) that is payable to the radiologist. Consequently, it is not truly an expense incurred by the Facility.

Disposition: The draft audit report disallowance was reduced as shown in Attachment B.

EXHIBIT IV COMMENTS

Adjustment #1 – Allowance of Land Improvements Depreciation Expense and Property Expense Appeal Items

Facility Comment

We had presented OMIG with several appeals which included Appeal #634901 and Appeal # 731802. Of the numerous items of appeal contained within these two (2) appeals, two (2) were acknowledged, accepted and addressed by the OMIG auditors and we've submitted letters of withdrawal for those two (2) items at OMIG's request. There is a history of rate appeals being accepted and processed concurrently with OMIG audit findings. Therefore, to be consistent with past treatment of countless other skilled nursing facilities, we are requesting all of these appeals be acknowledged, accepted and processed as offsets against OMIG's rate audit findings. We've included additional language regarding certain sections of these appeals as it may be helpful to OMIG to better understand the basis of those appeals. Many of these appeal items relate to our base period. The New York State Department of Health is not actively processing these appeals and we see this as our only opportunity to have these appeal items corrected.

OMIG Response

We have reviewed all items listed in Appeals #634901 and #731802.

The Appeal #731802 for land improvements depreciation expense was addressed in adjustment 1.

The Appeal #634901 for the proper calculation of mortgage interest was addressed in adjustment 4.

The Appeals #634901 and #731802 both for the waiver of the working capital interest limitation and the reimbursement of telephone leases in the capital component of the rate involved rate setting methodology and the BLTCR discretion. Such issues are outside OMIG's authority, and can only be resolved by the BLTCR.

The Appeal #731802 for correction of the interest income offset appears to have been previously handled by the BLTCR. The facility requested that the offset be limited to $44,966. The audit confirmed the $44,966 offset of interest income against interest expense.

Disposition: The draft report remains unchanged.

Adjustment #2 – Disallowance of Telephone Rent Expense

Facility Comment

Our facility properly classified and recorded both operating and rental expenses related to telephones in the base year and in 2006 as shown on the attached documentation.

Such rental expenses were reported on Schedule 15 in the base year. $3,517 of the rental expense was appropriately reimbursed in the 2003-2005 Medicaid Property Rates. $33,890 of the rental expense was not appropriately reimbursed in the 2003-2005 Medicaid Property Rates.

Such rental expenses were reported on Schedule 15 in 2006. $77,428 of the rental expense was appropriately reimbursed in the 2008 Medicaid Property Rate.

Please reference the attached documentation.

In regards to the base, mean and ceiling prices for 2007-2011 reimbursement, there are no telephone expenses included in the base, mean and ceiling prices used to establish the indirect expense corridor. The costs used to determine the prices are the 2002 RHCF-4 expenses of all New York State facilities. In 2002, there were no capital costs for telephone included in the operating telephone expense. Back in 1983, the prior statewide base period, the cost of operating minor telephone equipment was incorporated as a normal charge on the monthly telephone bill. With the advancement of technology, telephone companies no longer bill a nominal charge for minor equipment. Instead, any entity that wants to provide even moderate telecommunications services must incur significant equipment costs, not operating costs, not to mention software costs through a separate vendor.

Our facility is taking the same position of the New York State Department of Health; that expense related to property, plant and equipment is not operating expense but instead, is property expense. Telephone equipment (handsets, wiring, switchboards, etc.) is undeniably in the property, plant and equipment category and expenses related to such equipment should be allowable as property expenses for reimbursement purposes. We've clearly reported property portions of telephone expense on RHCF-4, Schedule 15 as follows:

	Operating GL835184	Property GL831973	Property GL837173
Base Year (rate years 6/11/03-12/31/05):	$ 70,185	$ 33,890	$ 3,517
2006 (rate year 2008):	$ 46,833	$ 77,428	$ 0

We disagree with the proposed adjustment to disallow capital cost of telephone equipment. In addition, we are requesting that we receive property reimbursement for the $33,890 that was previously not included in our promulgated rates.

Please also reference the Appeal #731802 package, page 7 of 32, and the Appeal #634901 package, page 19 of 22 for other telephone rental expense appeal items.

OMIG Response

The Bureau of Long Term Care Reimbursement (BLTCR) has determined the nature of telephone expense to be an operating expense. This position has been upheld in administrative decisions. The Facility has not provided anything to change OMIG's position, or that would result in an exemption from BLTCR's determination regarding this adjustment.

Disposition: The draft audit report disallowances remain the same.

Adjustment #3a – Disallowance of Depreciation

Facility Comment

Our facility properly classified and recorded both operating and depreciation expenses related to telephones in cost years 2004-2006.

Such depreciation expenses were reported on Schedule 10 & 11 in years 2004-2006. Expenses for ME depreciation of $819, $1,092 and $1,092 were appropriately reimbursed in the 2006, 2007 and 2008 Medicaid Property Rates, respectively. Expenses for LI depreciation of $544 and $594 were appropriately reimbursed in the 2007 and 2008 Medicaid Property Rates, respectively.

In regards to the base, mean and ceiling prices for 2007-2011 reimbursement, there are no telephone expenses included in the base, mean and ceiling prices used to establish the indirect expense corridor. The costs used to determine the prices are the 2002 RHCF-4 expenses of all New York State facilities. In 2002, there were no capital costs for telephone included in the operating telephone expense. Back in 1983, the prior statewide base period, the cost of operating minor telephone equipment was incorporated as a normal charge on the monthly telephone bill. With the advancement of technology, telephone companies no longer bill a nominal charge for minor equipment. Instead, any entity that wants to provide even moderate telecommunications services must incur significant equipment costs, not operating costs, not to mention software costs through a separate vendor.

Our facility is taking the same position of the New York State Department of Health; that expense related to property, plant and equipment is not operating expense but instead, is property expense. Telephone equipment (handsets, wiring, switchboards, etc.) is undeniably in the property, plant and equipment category and expenses related to such equipment should be allowable as property expenses for reimbursement purposes. We've clearly reported operating and property portions of telephone expense on RHCF-4's filed.

We disagree with the proposed adjustment to disallow capital cost of telephone equipment.

OMIG Response

The Bureau of Long Term Care Reimbursement (BLTCR) has determined the nature of telephone expense to be an operating expense. This position has been upheld in administrative decisions. The Facility has not provided anything to change OMIG's position, or that would result in an exemption from BLTCR's determination regarding this adjustment.

Disposition: The draft audit report disallowances remain the same.

Adjustment #3c – Disallowance of Depreciation

Facility Comment

OMIG is eliminating asset useful life stating that the asset was fully paid in the rate methodology. BLTCR, which establishes the annual Medicaid rates each January, calculates the property component from the most recently filed cost report (usually 2 years prior from the rate year). When reimbursing cost related to the facility's depreciation, Schedule 10 of that cost report is utilized. Schedule 10 identifies the historical costs (assets) purchased in the specific year and multiplies that amount by a rate of depreciation. In the case of Our Lady of Peace Nursing Care Residence (OLOP), the rate of depreciation is an average of all of the assets useful lives for that specific year. The depreciation is reimbursed each year until the full amount of all of the assets is fully paid. Once the asset is included in the historical cost amount, it doesn't matter what the individual asset's useful life is because the rate methodology is reimbursing that asset over the average depreciation percentage of all of the assets for that specific year. In the case of OLOP, the rate of depreciation for building is stated as 6% and for movable equipment as 11%. If you check the calculation on schedule 10 the numbers are very close. OMIG is eliminating the assets of 3 and 5 years because that is the useful life used in the component average. If the asset was fully reimbursed as OMIG states, the rate of depreciation should be 33.3% for 3 years and 20% for 5 years. This is not the rate being reimbursed in the property component of the annual Medicaid rates for these assets.

Therefore, the statement that the 3 and 5 year assets are fully paid is an incorrect statement by OMIG and this adjustment should be eliminated from their findings.

OMIG Response

The audit disallowance was based on the Facility's detailed asset depreciation schedules that the Facility summarized to prepare the RHCF-4 Schedule 10. The Facility is incorrect in asserting, "It doesn't matter what the individual asset's useful life is because rate methodology is reimbursing that asset over the average depreciation percentage of all the assets for that specific year." Rate methodology reimburses depreciation on the actual individual asset life not on an average depreciation percentage for all assets of a specific year.

Disposition: The draft report disallowances remain the same.

Adjustment #4 – Mortgage Interest Disallowance

Facility Comment

When reviewing the over mortgaging percentage calculation, OMIG's calculation is correct except for the 2005 RHCF asset inclusion of land improvements which should have been included in the amount of $5,938 beginning with the 2007 rate. This amount should also be carried forward to the 2008 rate. The overage mortgaging percentage in 2007 was .9019 but should be .9021 and in 2008 was .9029 and should be .9031.

We are requesting that OMIG correct these portions of their calculations in their findings.

OMIG Response

The audit excluded the $5,938 asset addition because it was for telephone equipment. The Bureau of Long Term Care Reimbursement (BLTCR) has determined the nature of telephone expense to be an operating expense. This position has been upheld in administrative decisions. The Facility has not provided anything to change OMIG's position, or that would result in an exemption from BLTCR's determination regarding this adjustment.

Therefore, since the adjustment(s) to historical cost stemmed from the disallowance of the cost of telephone equipment, the revisions to the over mortgaging calculation percentages remain.

Disposition: The draft audit report disallowances remain the same.

Other Comments

Per Diem Adjustment for Health Personnel Recruitment and Retention

Facility Comment

We had presented OMIG with several appeals which included Appeal #634901 and Appeal #731802. Of the numerous items of appeal contained within these two (2) appeals, two (2) were acknowledged, accepted and addressed by the OMIG auditors and we've submitted letters of withdrawal for those two (2) items at OMIG's request. There is a history of rate appeals being accepted and processed concurrently with OMIG audit findings. Therefore, to be consistent with past treatment of countless other skilled nursing facilities, we are requesting that all of these appeals be acknowledged, accepted and processed as offsets against OMIG's rate audit findings. We've included additional language regarding certain sections of these appeals as it may be helpful to OMIG to better understand the basis of those appeals. Many of these appeal items relate to our base period. The New York State Department of Health is not actively processing these appeals and we see this as our only opportunity to have these appeal items corrected.

OMIG Response

The Appeals #634901 and #731802 for per diem adjustment for health personnel recruitment and retention involved rate setting methodology and the BLTCR discretion. Such issues are outside OMIG's authority, and can only be resolved by the BLTCR.

Disposition: The Facility's response issue cannot be addressed by the OMIG.

Reserve Bed Days

Facility Comment

We are formally requesting that reserve bed days not be included in the calculation of reimbursement rates (site case Kateri Residence vs. Daines, Francis).

OMIG Response

Patient day methodology is established by the BLTCR. Consequently, the OMIG does not have the authority to address this issue and must defer to the BLTCR regarding any resolution.

Disposition: The Facility's response issue cannot be addressed by the OMIG.

ATTACHMENT B

OUR LADY OF PEACE NURSING CARE RESIDENCE - Audit #10-6959
SUMMARY OF CHANGES FROM DRAFT REPORT TO FINAL REPORT

EXHIBIT III - OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)	Rate Period	Draft Disallowance (Allowance)	Change	Final Disallowance (Allowance)
4. LABORATORY AND RADIOLOGY EXPENSE DISALLOWANCES	Operating Base	$77,534	($77,534)	$ -

OUR LADY OF PEACE NURSING CARE RESIDENCE - AUDIT #10-6959
RATE PERIODS JUNE 11, 2003 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
06/11/03 - 08/31/03	$181.63	$178.35	$3.28	14,523	$ 47,636
09/01/03 - 11/30/03	181.63	178.35	3.28	18,062	59,243
12/01/03 - 12/31/03	182.48	179.21	3.27	6,098	19,940
01/01/04 - 02/29/04	184.66	183.02	1.64	11,621	19,058
03/01/04 - 03/31/04	187.80	186.16	1.64	6,091	9,989
04/01/04 - 05/31/04	187.96	186.32	1.64	11,650	19,106
06/01/04 - 08/31/04	188.81	187.18	1.63	17,604	28,695
09/01/04 - 11/30/04	186.72	185.08	1.64	17,027	27,924
12/01/04 - 12/31/04	187.88	186.24	1.64	5,685	9,323
01/01/05 - 02/28/05	195.44	191.37	4.07	10,344	42,100
03/01/05 - 05/31/05	196.26	192.19	4.07	16,054	65,340
06/01/05 - 06/30/05	194.97	190.89	4.08	5,099	20,804
07/01/05 - 08/31/05	194.97	190.89	4.08	10,551	43,048
09/01/05 - 11/30/05	195.20	191.12	4.08	15,318	62,497
12/01/05 - 12/31/05	196.12	192.05	4.07	5,260	21,408
01/01/06 - 02/28/06	202.90	198.27	4.63	9,818	45,457
03/01/06 - 03/31/06	207.12	202.49	4.63	5,196	24,057
04/01/06 - 05/31/06	206.72	202.09	4.63	10,205	47,249
06/01/06 - 08/31/06	205.28	200.65	4.63	15,704	72,710
09/01/06 - 11/30/06	205.40	200.77	4.63	15,145	70,121
12/01/06 - 12/31/06	205.09	200.46	4.63	5,015	23,219
01/01/07 - 03/31/07	211.13	210.10	1.03	14,966	15,415
04/01/07 - 06/30/07	210.12	209.09	1.03	14,754	15,197
07/01/07 - 08/31/07	211.19	210.16	1.03	10,019	10,320
09/01/07 - 12/31/07	211.19	210.16	1.03	18,769	19,332
01/01/08 - 03/31/08	218.81	209.98	8.83	14,281	126,101
04/01/08 - 06/30/08	216.38	207.56	8.82	14,169	124,971
07/01/08 - 12/31/08	218.29	209.47	8.82	29,701	261,963
TOTAL MEDICAID OVERPAYMENT					**$ 1,352,223**

* 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.

OUR LADY OF PEACE NURSING CARE RESIDENCE - AUDIT #10-6959
RATE PERIODS JUNE 11, 2003 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 69 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 *
06/11/03 - 08/31/03	$ 181.63
09/01/03 - 11/30/03	181.63
12/01/03 - 12/31/03	182.48
01/01/04 - 02/29/04	184.66
03/01/04 - 03/31/04	187.80
04/01/04 - 05/31/04	187.96
06/01/04 - 08/31/04	188.81
09/01/04 - 11/30/04	186.72
12/01/04 - 12/31/04	187.88
01/01/05 - 02/28/05	195.44
03/01/05 - 05/31/05	196.26
06/01/05 - 06/30/05	194.97
07/01/05 - 08/31/05	194.97
09/01/05 - 11/30/05	195.20
12/01/05 - 12/31/05	196.12
01/01/06 - 02/28/06	202.90
03/01/06 - 03/31/06	207.12
04/01/06 - 05/31/06	206.72
06/01/06 - 08/31/06	205.28
09/01/06 - 11/30/06	205.40
12/01/06 - 12/31/06	205.09
01/01/07 - 03/31/07	211.13
04/01/07 - 06/30/07	210.12
07/01/07 - 08/31/07	211.19
09/01/07 - 12/31/07	211.19
01/01/08 - 03/31/08	218.81
04/01/08 - 06/30/08	216.38
07/01/08 - 12/31/08	218.29

* 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.

OUR LADY OF PEACE NURSING CARE RESIDENCE - AUDIT #10-6959
RATE PERIODS JUNE 11, 2003 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP.
Operating Expense Allowed per HE-12B			$ 9,561,460	$ 4,870,333	$ 833,332
Less Disallowances/(Allowances):					
Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals					
1. DIRECTOR OF VOLUNTEERS EXPENSE ALLOWANCE The promulgated rate did not include $531 for the director of volunteers expenses. The amount was reported by the Facility and was verified on the audit. Therefore, an adjustment was made to include the allowable cost for director of volunteers expense. **The Facility withdrew the item from the outstanding appeal #634901, issue #1 in a correspondence to BLTCR dated September 25, 2014.** **Regulations: 10 NYCRR Sections 86-2.10(f)(2) & 86-2.17(a)**	Ancil-Other	045			(531)
BLTCR Open Appeals Operating Expense Disallowances/(Allowances)			$ -	$ -	$ (531)
Subtotal Operating Expense by Component			$ 9,561,460	$ 4,870,333	$ 833,863
Other OMIG Audit Disallowances/(Allowances)					
2. UTILITIES DISALLOWANCES/(ALLOWANCES) a) The Facility is a not-for-profit entity and included sales tax on electricity and gas. Taxes are not allowable as costs where exemptions are available to the provider. Therefore, a disallowance was made for the amount of sales tax included in reported costs. **Regulations: 10 NYCRR Section 86-2.17 (a) & PRM-1 Section 2122.2D**	Utilities	106			36,812
b) Expenditures are to be recorded in the period in which they are incurred. Reported base year expense included expenditures pertaining to a prior period. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Sections 86-2.4 & 86-2.17(a), PRM-1 Sections 2300, 2302.1 & 2304**	Utilities	106			7,177
c) Electricity expense included late fees paid to Niagara Mohawk. It is the determination of the Commissioner that late fees are not an allowable expense. Therefore, the expense was disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2102.2 & 2103**	Utilities	106			492
d) The Facility incorrectly included an inventory adjustment that reduced the reported amount of utilities. The adjustment should have reduced plant and maintenance costs. Therefore, the inventory adjustment was reclassified on audit. **Regulations: 10 NYCRR Sections 86-2.10(f)(2) & 455.6**	Utilities Plant Oper	106 006		 5,966	(5,966)
e) The Facility included water and sewer charges in administrative expenses. Those charges should have been included as utilities expense. Consequently, the expense was reclassified. **Regulations: 10 NYCRR Sections 86-2.10(f)(2), 455.5, 455.6 & 458.5**	Utilities Admin Svc	106 005		 14,654	(14,654)

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	DESCRIPTION	COST CENTER	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP.
3. MEDICAL DIRECTOR EXPENSE DISALLOWANCES Expenditures are to be recorded in the period in which they are incurred. Reported base year expense included expenditures pertaining to a prior period. Consequently, disallowances were necessary for these out of period costs. **Regulations: 10 NYCRR Sections 86-2.4 & 86-2.17(a), PRM-1 Sections 2300, 2302.1, & 2304**	Med Dir	017			4,666
4. LABORATORY AND RADIOLOGY EXPENSE DISALLOWANCES Effective April 1, 2001, the Centers for Medicare and Medicaid Services (CMS) policy for consolidated billing required that nursing facilities bill and receive reimbursement under Medicare Part A for the radiology and laboratory "technical component" portion of charges. The actual radiology and laboratory service provider then bills the nursing facility to receive its reimbursement of the technical component. Consequently, inclusion of any such "expenses" in the Medicaid rate would duplicate reimbursement. The "expense" is merely a pass through of income received by the nursing facility to the service provider. Additionally, the above transactions do not pertain to Medicaid patients in any way. Since the "expense" does not pertain to Medicaid patients, it is not reimbursable under the Medicaid program. **Regulations: 10 NYCRR Section 86-2.17 (d), HCFA Pub. 60B, Transmittal B-00-67 dated Nov. 27, 2000, Subject: Consolidated Billing for SNF Residents**	Radiology	034			11,164
5. RECLASSIFICATION OF OXYGEN The Facility incorrectly included oxygen in inhalation therapy. The expense should be reported in the central service supply. Therefore, the expense was reclassified. **Regulations: 10 NYCRR Sections 455.35, 458.5, 455.27 & Accounting & Reporting Manual 7200.41**	Inhal Therapy	035			42,401
	Cen Sup	043	(42,401)		
Other OMIG Operating Expense Disallowances/(Allowances)			$ (42,401)	$ 20,620	$ 82,092
TOTAL AUDITED OPERATING EXPENSE BY COMPONENT			$ 9,603,861	$ 4,849,713	$ 751,771

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RATE PERIODS JUNE 11, 2003 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCR.	COST CENTER	RATE PERIODS 6/11/2003-12/31/2003	1/1/2004-12/31/2004	1/1/2005-12/31/2005	1/1/2006-12/31/2006	1/1/2007-12/31/2007	1/1/2008-12/31/2008
Property Expense Allowed per HE-12B			$ 3,462,570	$ 3,432,366	$ 3,634,601	$ 3,743,491	$ 3,336,445	$ 3,683,043
Less Disallowances/(Allowances):								
Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals								
1. ALLOWANCE OF LAND IMPROVEMENTS DEPRECIATION EXPENSE								
The Facility was not reimbursed for land improvements depreciation expense in rate year 2007. An adjustment was made to allow reported land depreciation expense. **The Facility withdrew the item (#1) from the outstanding appeal #731802, issue #1 in a correspondence to BLTCR dated September 25, 2014.** **Regulations: 10 NYCRR Sections 86-2.17(a) and 86-2.19(a)**	LI Depr	001					(230,601)	
BLTCR Open Appeals Disallowances/(Allowances)			$ -	$ -	$ -	$ -	$ (230,601)	$ -
Subtotal Property Expense			$ 3,462,570	$ 3,432,366	$ 3,634,601	$ 3,743,491	$ 3,567,046	$ 3,683,043
Other OMIG Audit Disallowances/(Allowances)								
2. DISALLOWANCE OF TELEPHONE RENT EXPENSE								
The Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense. Since the expense is included in the formula to determine the base, mean, and ceiling prices used to establish the indirect expense corridor, the reimbursement of telephone expense in the property component amounts to duplicate reimbursement. Consequently, disallowances were necessary. **Regulation: 10 NYCRR Section 86-2.17(d)**	Rent H Rent B	005 005	3,518	3,518	3,518			77,428
3. DISALLOWANCE OF DEPRECIATION								
a) The Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense. Since the expense is included in the formula to determine the base, mean, and ceiling prices used to establish the indirect expense corridor, the reimbursement of telephone depreciation expense in the property component amounts to duplicate reimbursement. Consequently, disallowances were necessary **Regulation: 10 NYCRR Section 86-2.17(d)**	ME Depr LI Depr	002 001				819	1,092 544	1092 594
b) Any project cost which exceeds a cost already approved shall not be considered an allowable cost for reimbursement. The OMIG determined that reported cost for APC #002249 exceeded approved cost by $426,109. As a result, depreciation expense allowed in the rates was overstated. **Regulations: 10 NYCRR Sections 86-2.19, 86-2.22 & 710.6**	Bldg Depr LI Depr ME Depr	001 001 002	24,523 4,170	24,523 4,170	24,523 4,170	24,428 4,484	21,482 3,080 4,202	21,356 3,080 3,488
c) The Facility received depreciation expense that was in excess of related asset costs. Reimbursement is based on allowable historical costs and the expense was reduced to limit reimbursement to historical cost. The assets with 3 year and 5 year useful lives were fully reimbursed by the Medicaid program in rate years 2006 and 2008 respectively. The excess depreciation was disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a)&(d), 86-2.19(a), 86-2.22, PRM-1 Sections 2300 & 2304**	Bldg Depr LI Depr ME Depr	001 001 002				 27,350	 46,885	102,480 22,444 61,144
4. MORTGAGE INTEREST DISALLOWANCE								
Adjustments to historical costs necessitate revisions to the over mortgaging percentage. The OMIG's review disclosed that rate year mortgage interest expense allowed in the rate computation process varied from audited expense. The differences along with the application of the over mortgaging percentage resulted in adjustments. **Regulation: 10 NYCRR Section 86-2.20(a)**	Mtg Int	003	149,709	5,757	214,513	214,195	96,030	355,243

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PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCR.	COST CENTER	RATE PERIODS 6/11/2003-12/31/2003	1/1/2004-12/31/2004	1/1/2005-12/31/2005	1/1/2006-12/31/2006	1/1/2007-12/31/2007	1/1/2008-12/31/2008
5. PROPERTY INSURANCE DISALLOWANCES/(ALLOWANCES) Facilities 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 insurance varied from the insurance expense allowed in the rate resulting in disallowances/(allowances). **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304**	Prop Ins	005	6,263	6,263	6,263	5,287	1,816	(156)
6. START-UP COST DISALLOWANCE Facilities 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 could not provide supporting documentation for portions of reported start-up costs resulting in disallowances to the amortization of those costs. Furthermore, the Facility amortized start-up costs over a five-year period. Since the costs were fully reimbursed by the Medicaid program in rate year 2008; the excess amortization was disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Sections 2132, 2300 & 2304**	Startup	002	17,664	17,664	17,664	17,664	17,664	51,641
7. WORKING CAPITAL INTEREST DISALLOWANCE The facility reported working capital interest where no principal payments were made on the loan. Interest is allowable on current indebtedness; however, principal payments on the loan must be made to be considered current indebtedness. In addition, it has been also determined by the Commissioner that interest expense related to working capital loans that are considered "interest only" is not reimbursable for Medicaid purposes. **Regulations: 10 NYCRR Sections 86-2.17 (a) & (d), 86-2.20, 451.71, PRM-1 Section 202.1**	WCI	003				33,750	40,781	
8. RECLASSIFICATION OF INVESTMENT INCOME OFFSET Reported Investment income was appropriately offset against working capital expense in the 2006 and 2007 promulgated rates. However, adjustment #7 disallowed all working capital expense. Consequently, it was necessary to reclassify the investment income offset from working capital interest to mortgage interest. **Regulation: 10 NYCRR Section 86-2.20(c)**	WCI WCI OTHER	005 003 003				(21,399) 21,399	 (40,781) 40,781	
Other OMIG Property Expense Disallowances/(Allowances)			$ 205,847	$ 61,895	$ 270,651	$ 327,977	$ 233,576	$ 699,632
TOTAL AUDITED PROPERTY EXPENSE			$ 3,256,723	$ 3,370,471	$ 3,363,950	$ 3,415,514	$ 3,333,470	$ 2,983,211