



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
ACTING MEDICAID INSPECTOR GENERAL

January 31, 2012

[REDACTED]
Gurwin Jewish Geriatric Center
68 Hauppauge Road
Commack, New York 11725

Re: Medicaid Rate Audit #06-7138
NPI Number: [REDACTED]
Provider Number: [REDACTED] (Old)
Provider Number: [REDACTED] (New)

Dear [REDACTED]

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Gurwin Jewish Geriatric Center's (the "Facility") Medicaid rates for the rate period January 1, 2002 through December 31, 2005. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated September 6, 2011, 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 \$364,857 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 \$663,191. This overpayment is subject to Department of Health (the "DOH") and Division of Budget (the "DOB") final approval. While not anticipated, any difference between the calculated overpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

In accordance with 18 NYCRR Part 518 which regulates the collection of overpayments, your repayment options are described below.

OPTION #1: Make full payment by check or money order within 20 days of the date of the final audit report. The check should be made payable to the New York State Department of Health and be sent with the attached Remittance Advice to:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #06-7138
Albany, New York 12237-0048

OPTION #2: Enter into a repayment agreement with the Office of the Medicaid Inspector General. If your repayment terms exceed 90 days from the date of the final audit report, recoveries of amounts due are subject to interest charges at the prime rate plus 2%. If the process of establishing the repayment agreement exceeds 20 days from the date of the final audit report, the OMIG will impose a 15% withhold after 20 days until the agreement is established. The OMIG may require financial information from you to establish the terms of the repayment agreement. If additional information is requested, the OMIG must receive the information within 30 days of the request or a 50% withhold will be imposed. OMIG acceptance of the repayment agreement is based on your repaying the Medicaid overpayment as agreed. The OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. The OMIG will notify you no later than 5 days after initiating such action. If you wish to enter into a repayment agreement, you must forward your written request within 20 days to the following:

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

If within 20 days, you fail to make full payment or contact the OMIG to make repayment arrangements, the OMIG will establish a withhold equal to 50% of your Medicaid billings to secure payment and liquidate the overpayment amount, interest and/or penalty, not barring any other remedy allowed by law. The OMIG will provide notice to you no later than 5 days after the withholding of any funds.

In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against the amount owed.

You have the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. You may not request a hearing to raise issues related to rate setting or rate setting methodology. In addition, you may not raise any issue that was raised or could have been raised at a rate appeal with your rate setting agency. You may only request a hearing to challenge specific audit adjustments which you challenged in a response to the draft audit report.

If you wish to request a hearing, the request must be submitted in writing to:

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

Questions regarding the request for a hearing should be directed to [REDACTED]
of the Office of Counsel at [REDACTED]

If a hearing is held, you may have a person represent you or you may represent yourself. If you choose to be represented by someone other than an attorney, you must supply a signed authorization permitting that person to represent you along with your hearing request. At the hearing, you may call witnesses and present documentary evidence on your behalf. If you have any questions regarding the above, please contact [REDACTED] at [REDACTED]

Sincerely,

[REDACTED]
Coordinator Medical Facilities Audit
Division of Medicaid Audit
Audit Management and Development
Office of the Medicaid Inspector General

Attachments:

- 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 - Property Expense Disallowances/(Allowances) Nursing Facility
- EXHIBIT IV - Property Expense Disallowances/(Allowances) Vent Unit
- EXHIBIT V - Correction of Patient Days

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Gurwin Jewish Geriatric Center
68 Hauppauge Road
Commack, New York 11725

NPI # [REDACTED]
PROVIDER # [REDACTED]

AUDIT #06-7138

AUDIT
TYPE

PROVIDER
 RATE
 PART B
 OTHER:

AMOUNT DUE: \$663,191

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 1237
File #06-7138
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

**GURWIN JEWISH GERIATRIC CENTER - AUDIT #06-1738
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. See last page of this attachment for adjustment changes for final report.

EXHIBIT III COMMENTS

Adjustment #1(a) – Building Depreciation Expense Adjustment for Telephone Expense

Facility Comment

Gurwin objects to the amount of building depreciation disallowed by adjustment #1(a). The Bureau of Long Term Care Reimbursement (BLTCR) reduced reported depreciation for the new building by 2.4% to disallow an amount reflective of the fact that the new building cost exceeded the approved project cost (APC) contained in the Certificate of Need. OMIG's adjustment #1(a), which refers to BLTCR's determination concerning telephone expense, did not consider the BLTCR disallowance, and, consequently overstated OMIG's disallowance for this item.

Gurwin has recalculated the amount disallowed for exceeding the APC for OMIG's telephone expense adjustment, which shows a significantly smaller disallowance. OMIG's approach results in a disallowance of the same costs more than once.

OMIG Response

Telephone expense is an operating expense and is not allowed in the capital portion of the rate. The disallowance for unapproved project cost had nothing to do with building depreciation. The Facility's comment was rejected.

Disposition: The draft report remains the same.

Adjustment #1(b) – Building Depreciation Expense Adjustment for Telephone Expense

Facility Comment

Gurwin objects to this adjustment in its entirety, along with adjustments #2, 4(b), 7, and 9 and the Correction of Patient Days. This series of adjustments is premised on OMIG's reversal of the determination made by the Department of Health's Bureau of Long Term Care Reimbursement ("BLTCR") to adjust the capital costs allowed for Gurwin's new building to a level that, when coupled with capital reimbursement received through its adult day care rate, reduced Medicaid reimbursement of the capital expense being audited by OMIG, in part to account for the operation of the adult day health care program. The chart below reflects the reductions to Gurwin's allowable costs already determined by the BLTCR and affected in Gurwin's rates:

RATE YEAR	AUDITED CAPITAL (1)	REIMBURSED CAPITAL (2)
2002	\$6,519,025	\$6,111,778
2003	\$6,767,534	\$6,539,338
2004	\$6,835,946	\$6,549,688

(1) Per OMIG Workpaper D-7-1

(2) Per Gurwin analysis

Specifically, the BLTCR adjusted downward Gurwin's capital costs allowed for the new wing on two separate occasions; first, in 2000, when the Department of Health promulgated rates reflecting interim costs for the new construction; and again in 2002, upon final approval of the project costs. Each time, the BLTCR had made a deliberate decision to reduce the capital costs allowed in Gurwin's nursing home rates to account for the operation of the adult day health care program in the new building. Indeed, the auditors readily acknowledge that the BLTCR had adjusted by 25% - the reimbursable interest, depreciation and mortgage insurance costs for the new building as unrelated to the operation of the nursing facility.

Nevertheless, on this audit, the auditors have rejected the rate setters' allocation methodology and "reversed the BLTCR adjustment," characterizing it as "impractical," and substituting a revised traceback percentage, retroactively. The auditors' conclusory assertion not only lacks any factual basis; the auditors' contention is also an improper legal basis for adjusting Gurwin's rates on audit.

At the outset, we note that the auditors proposed this adjustment even though they concede that the BLTCR had only begun updating the traceback percentage as an allocation methodology in 2005. In this regard, the BLTCR clearly stated that the effective date for use of the revised traceback percentages was January 1, 2005. See November 2, 2004 "Dear Administrator" letter, (pages 1-2), which transmitted Medicaid rates to facilities for the period of January 1, 2005 though December 31, 2005, a copy of which is attached as Exhibit E. Thus, on its face, this new allocation methodology applies only prospectively. Nor can the new methodology be lawfully applied retroactively to the 2002-2004 rate periods under audit in any event.

What is more, the BLTCR determined to revise the traceback percentage to "insure that the facility will not be reimbursed more than 100% of their historical cost" of the nursing home. Ex. D., page 2. Plainly, in Gurwin's case, there is no need for the auditors to take rate setting matters into their own hands and decide which allocation methodology was more "practical" to account for its adult day care program and avoid duplicate reimbursement. The BLTCR -- the agency responsible for rate-setting -- had made that determination itself, by adjusting downward Gurwin's capital costs allowed for the new building.

More fundamentally, on audit, OMIG may only correct for errors made in cost reporting, and mathematical and other rate-computational errors. The auditors must otherwise follow the rate methodology established by the BLTCR in the audited periods. See Livingston Cty. Health Related Facility v. Perales, 124 A.D.2d 289, 291 (3d Dep't 1986); see also Rossi v. Axelrod, 178 A.D.2d 813, 814 (3d Dep't 1991) (auditors must "faithfully adhere to the methodology which DOH established and employed in calculating [the facility's] original rights"). It is thus well settled that the auditors lack the authority to essentially substitute their own judgment on rate-setting matters for the BLTCR's rate determinations, particularly here where, to reiterate, the rate setters had made a deliberate decision to reduce the capital-cost reimbursement allowed for the operation of Gurwin's new facility.

Adjustment #1(b) – Building Depreciation Expense Adjustment for Telephone Expense (con't)

Facility Comment (con't)

In addition, New York Public Health Law requires the Department of Health to notify nursing homes of their annual rates of Medicaid reimbursement in advance of the rate period. The purpose of this requirement is to permit nursing homes to budget their expenses and plan their operations in reliance on established rates. Retroactively changing the traceback percentage utilized to calculate 2002-2004 Medicaid rates, years after the fact, is inconsistent with Public Health Law § 72807(7)(a).

While the Department of Health may prospectively change the Medicaid rate methodology, neither the Department nor OMIG has authority to do so retroactively. Here, there is no question that the Department's BLTCR did effect a methodology, specific to Gurwin, to account for the adult day care program in the new building during the prior audited periods. Substituting the revised traceback percentage on audit would effect an unlawful retroactive change in methodology, to the detriment of Gurwin's rights.

Accordingly, proposed adjustment 1(b), as well as adjustments ## 2, 4, 7 and 9, should be eliminated in its entirety.

OMIG Response

The Facility's comment was partially accepted. The Facility argues that BLTCR reduced their Building Depreciation, Movable Equipment depreciation, Mortgage Interest and Mortgage Insurance for the new wing by 25.48% for the ADHC portion of the costs. The new wing also included a Vent Unit. The Facility provided the square footage for the nursing Facility, ADHC and Vent Unit. The ADHC percentage should have been 20.1% and not 25.48%. The Vent Unit's capital per diem is the nursing Facility's capital per diem plus the Vent rentals. As a result, it was determined that the proper way to adjust for the ADHC was to reverse our adjustment and allow the 5.47% for the Vent Unit portion.

Disposition: Provider response partially recognized. The disallowances were revised as shown on the summary of adjustment changes.

Adjustment #2 – Mortgage Interest Expense Allowance

Facility Comment

For the reasons set forth in response to adjustment 1(b), Gurwin objects to this proposed adjustment, and submits that it should be eliminated in its entirety.

OMIG Response

The Facility's comment was partially accepted. The Facility argues that BLTCR reduced their Building Depreciation, Movable Equipment depreciation, Mortgage Interest and Mortgage Insurance for the new wing by 25.48% for the ADHC portion of the costs. The new wing also included a Vent Unit. The Facility provided the square footage for the nursing Facility, ADHC and Vent Unit. The ADHC percentage should have been 20.1% and not 25.48%. The Vent Unit's capital per diem is the nursing Facility's capital per diem plus the Vent rentals. As a result, it was determined that the proper way to adjust for the ADHC was to reverse our adjustment and allow the 5.47% for the Vent Unit portion.

Disposition: Provider response partially recognized. The disallowances were revised as shown on the summary of adjustment changes.

Adjustment #4 – Movable Equipment Depreciation Adjustments

Facility Comment

For the reasons set forth in response to adjustment 1(b), Gurwin objects to this proposed adjustment, and submits that it should be eliminated in its entirety.

OMIG Response

The Facility's comment was partially accepted. The Facility argues that BLTCR reduced their Building Depreciation, Movable Equipment depreciation, Mortgage Interest and Mortgage Insurance for the new wing by 25.48% for the ADHC portion of the costs. The new wing also included a Vent Unit. The Facility provided the square footage for the nursing Facility, ADHC and Vent Unit. The ADHC percentage should have been 20.1% and not 25.48%. The Vent Unit's capital per diem is the nursing Facility's capital per diem plus the Vent rentals. As a result, it was determined that the proper way to adjust for the ADHC was to reverse our adjustment and allow the 5.47% for the Vent Unit portion.

Disposition: Provider response partially recognized. The disallowances were revised as shown on the summary of adjustment changes.

Adjustment #7 – Mortgage Insurance Expense Allowances

Facility Comment

For the reasons set forth in response to adjustment 1(b), Gurwin objects to this proposed adjustment, and submits that it should be eliminated in its entirety.

OMIG Response

The Facility's comment was partially accepted. The Facility argues that BLTCR reduced their Building Depreciation, Movable Equipment depreciation, Mortgage Interest and Mortgage Insurance for the new wing by 25.48% for the ADHC portion of the costs. The new wing also included a Vent Unit. The Facility provided the square footage for the nursing Facility, ADHC and Vent Unit. The ADHC percentage should have been 20.1% and not 25.48%. The Vent Unit's capital per diem is the nursing Facility's capital per diem plus the Vent rentals. As a result, it was determined that the proper way to adjust for the ADHC was to reverse our adjustment and allow the 5.47% for the Vent Unit portion.

Disposition: Provider response partially recognized. The disallowances were revised as shown on the summary of adjustment changes.

Adjustment #9 – Non-Patient Care Cost Disallowances

Facility Comment

For the reasons set forth in response to adjustment 1(b), Gurwin objects to this proposed adjustment, and submits that it should be eliminated in its entirety.

OMIG Response

BLTCR adjusted Building and Movable equipment depreciation, Mortgage Interest expense, and Mortgage insurance for the ADHC costs. The other capital expenses were not adjusted and adjustment was necessary for those expenses.

Disposition: Provider response partially recognized. The disallowances were revised based on the partially recognized changes that were made to adjustments #1(b), #2, #3, and #4. The disallowances were revised as shown on the summary of adjustment changes.

EXHIBIT V COMMENTS

Correction of Patient Days Adjustment

Facility Comment

For the reasons set forth in response to adjustment 1(b), Gurwin objects to this proposed adjustment, and submits that it should be eliminated in its entirety. The auditors may not properly supplant the BLTCR's methodology for calculating the capital component of Gurwin's nursing facility rates.

OMIG Response

The Vent Unit's capital per diem is the Nursing Facility's capital per diem plus the Vent rentals. BLTCR did not include the Vent days when they promulgated the Nursing Facility's per diem. To properly reflect all costs and days, the OMIG adjusted this on audit by adding the Vent days and recalculated the per diem.

Disposition: The draft report disallowance remains the same.

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
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>
<u>NURSING FACILITY</u>					
01/01/02 - 03/31/02	\$253.76	\$253.00	\$0.76	31,771	\$ 24,146
04/01/02 - 06/30/02	258.03	257.27	0.76	31,773	24,147
07/01/02 - 09/30/02	257.51	256.75	0.76	32,531	24,724
10/01/02 - 12/31/02	256.12	255.36	0.76	31,969	24,296
01/01/03 - 03/31/03	258.91	257.32	1.59	30,676	48,775
04/01/03 - 06/30/03	259.45	257.85	1.60	31,064	49,702
07/01/03 - 09/30/03	257.97	256.37	1.60	31,235	49,976
10/01/03 - 12/31/03	260.51	258.91	1.60	31,419	50,270
01/01/04 - 03/31/04	268.58	266.87	1.71	30,261	51,746
04/01/04 - 06/30/04	267.98	266.27	1.71	31,171	53,302
07/01/04 - 09/30/04	266.92	265.21	1.71	32,619	55,778
10/01/04 - 12/31/04	268.53	266.82	1.71	31,706	54,217
01/01/05 - 03/31/05	270.39	270.03	0.36	30,806	11,090
04/01/05 - 06/30/05	264.40	264.04	0.36	30,804	11,089
07/01/05 - 09/30/05	265.36	265.00	0.36	31,339	11,282
10/01/05 - 12/31/05	270.25	269.89	0.36	30,587	11,011
<u>MEDICAID OVERPAYMENT-NURSING FACILITY</u>					<u>\$ 555,551</u>

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
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>
<u>VENTILATOR UNIT</u>					
01/01/02 - 03/31/02	\$526.37	\$515.04	\$11.33	2,185	\$ 24,756
04/01/02 - 06/30/02	534.33	523.00	11.33	2,172	24,609
07/01/02 - 09/30/02	536.23	524.90	11.33	2,167	24,552
10/01/02 - 12/31/02	532.69	521.36	11.33	2,103	23,827
01/01/03 - 03/31/03	531.40	532.38	(0.98)	1,921	(1,883)
04/01/03 - 06/30/03	528.23	529.21	(0.98)	2,165	(2,122)
07/01/03 - 09/30/03	525.76	526.74	(0.98)	2,091	(2,049)
10/01/03 - 12/31/03	530.09	531.07	(0.98)	1,919	(1,881)
01/01/04 - 03/31/04	551.74	550.04	1.70	1,934	3,288
04/01/04 - 06/30/04	560.86	559.16	1.70	2,003	3,405
07/01/04 - 09/30/04	562.55	560.85	1.70	1,950	3,315
10/01/04 - 12/31/04	554.47	552.77	1.70	1,995	3,392
01/01/05 - 03/31/05	595.15	594.56	0.59	1,949	1,150
04/01/05 - 06/30/05	593.90	593.31	0.59	1,870	1,103
07/01/05 - 09/30/05	591.92	591.33	0.59	1,738	1,025
10/01/05 - 12/31/05	587.13	586.54	0.59	1,955	1,153
MEDICAID OVERPAYMENT-VENTILATOR UNIT					<u>\$ 107,640</u>
TOTAL MEDICAID OVERPAYMENT					<u>\$ 663,191</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.

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 76 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>
<u>NURSING FACILITY</u>	
01/01/02 - 03/31/02	\$ 245.90
04/01/02 - 06/30/02	250.17
07/01/02 - 09/30/02	249.65
10/01/02 - 12/31/02	248.26
01/01/03 - 03/31/03	252.36
04/01/03 - 06/30/03	252.90
07/01/03 - 09/30/03	251.42
10/01/03 - 12/31/03	253.96
01/01/04 - 03/31/04	262.61
04/01/04 - 06/30/04	262.01
07/01/04 - 09/30/04	260.95
10/01/04 - 12/31/04	262.56
01/01/05 - 03/31/05	270.39
04/01/05 - 06/30/05	264.40
07/01/05 - 09/30/05	265.36
10/01/05 - 12/31/05	270.25

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 94 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>VENTILATOR UNIT</u>	Issued Medicare Part B & D <u>Non-Eligible Rates *</u>
01/01/02 - 03/31/02	\$ 526.37
04/01/02 - 06/30/02	534.33
07/01/02 - 09/30/02	536.23
10/01/02 - 12/31/02	532.69
01/01/03 - 03/31/03	531.40
04/01/03 - 06/30/03	528.23
07/01/03 - 09/30/03	525.76
10/01/03 - 12/31/03	530.09
01/01/04 - 03/31/04	551.74
04/01/04 - 06/30/04	560.86
07/01/04 - 09/30/04	562.55
10/01/04 - 12/31/04	554.47
01/01/05 - 03/31/05	595.15
04/01/05 - 06/30/05	593.90
07/01/05 - 09/30/05	591.92
10/01/05 - 12/31/05	587.13

* 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.

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES) FOR NURSING FACILITY AND VENTILATOR UNIT

DESCRIPTION CENTER	COST DISALLOWED TRACE- (ALLOWED)	BACK %	RATE PERIODS			
			2002	2003	2004	2005
	\$ 5,467,870	\$ 5,722,989	\$ 5,793,827	\$ 4,841,212	\$ 757,344	

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

1. BUILDING DEPRECIATION EXPENSE ADJUSTMENTS

a) The Bureau of Long Term Care Reimbursement (BLTCR) 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)

b) BLTCR adjusted the depreciation allowed on the addition to the Facility by an amount determined to be directly related to the ADHC. However, the wing addition comprises nursing Facility beds, the ADHC, and a Vent unit. Because the Vent capital per diem is based on the Nursing Facility capital per diem rate the audit reversed the BLTCR adjustment that related to the Vent unit. Consequently, allowances were necessary.
Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.19(a)

2. MORTGAGE INTEREST EXPENSE ALLOWANCE

According to BLTCR, mortgage interest expense is reimbursed on a rate year basis. The Facility maintains two mortgages. The first mortgage relates to the initial 1988 assets and is reimbursed 100%. The second mortgage is related to construction of the new wing on the Facility mentioned in adjustment #1. BLTCR determined that a portion of this mortgage was related to the ADHC. However, the wing addition comprises nursing Facility beds, the ADHC, and a Vent Unit. Because the Vent capital per diem is based on the Nursing Facility capital per diem rate the audit reversed the BLTCR adjustment that related to the Vent Unit. Consequently, allowances were necessary.
Regulation: 10 NYCRR Section 86-2.20(a)

3. PROPERTY AND BOILER INSURANCE ADJUSTMENTS

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 insurance varied from the insurance expense allowed in the rate resulting in adjustments.
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 and 2304

DESCRIPTION CENTER	COST DISALLOWED TRACE- (ALLOWED)	BACK %	RATE PERIODS			
			2002	2003	2004	2005
Bldg. Depr. 001	\$32,528	97.06%	31,572			
Bldg. Depr. 001	32,528	97.06%		31,572		
Bldg. Depr. 001	32,528	97.06%			31,572	
Bldg. Depr. 001	32,494	74.24%				24,124
Bldg. Depr. 001	32,494	8.04%				2,613
Bldg. Depr. 001	(83,300)	97.06%	(80,851)			
Bldg. Depr. 001	(87,347)	97.06%		(84,779)		
Bldg. Depr. 001	(87,460)	97.06%			(84,889)	
Mort. Int. 003	(83,498)	97.06%	(81,043)			
Mort. Int. 003	(82,397)	97.06%		(89,681)		
Mort. Int. 003	(91,090)	97.06%			(88,412)	
Prop. Ins. 005	(2,822)	96.25%	(2,716)			
Prop. Ins. 005	10,239	96.25%		9,855		
Prop. Ins. 005	4,427	96.25%				4,261

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES) FOR NURSING FACILITY AND VENTILATOR UNIT

DESCRIPTION CENTER	COST DISALLOWED TRACE- (ALLOWED)	BACK %	RATE PERIODS			
			2002	2003	2004	2005 Vent
ME Depr. 002	360	97.97%	353			
ME Depr. 002	15,359	97.97%	15,047		38,094	
ME Depr. 002	38,883	97.97%				34,985
ME Depr. 002	47,124	74.24%				
ME Depr. 002	47,124	8.04%				3,789

4. MOVABLE EQUIPMENT DEPRECIATION ADJUSTMENTS

a) The BLTCR 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)

b) BLTCR adjusted the depreciation allowed on the addition to the Facility by the amount determined to be directly related to the ADHC (as noted in adjustment #1). However, the wing addition comprises nursing Facility beds, the ADHC, and a Vent unit. Because the Vent capital per diem is based on the Nursing Facility capital per diem rate the audit reversed the BLTCR adjustment that related to the Vent unit. Consequently, allowances were necessary.

Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.19(a)

5. EQUIPMENT RENTAL ALLOWANCE

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 rental expense varied from the amount included in the promulgated rates. Consequently, allowances were necessary.

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

6. AUTO INSURANCE DISALLOWANCES

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 insurance varied from the insurance expense allowed in the rate resulting in adjustments to expense. Consequently, disallowances were necessary.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2300 and 2304

Rent C 005	(10,388)	96.25%			(10,008)	
Rent E 005	(4,423)	96.25%			(4,257)	
Auto Ins. 005	317	96.25%	305			
Auto Ins. 005	291	96.25%		280		
Auto Ins. 005	483	96.25%				465

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES) FOR NURSING FACILITY AND VENTILATOR UNIT

DESCRIPTION CENTER	COST DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS			
			2002	2003	2004	2005 Vent
Mort. Ins. 005	8,030	96.25%	7,729			
Mort. Ins. 005	18,209	96.25%	17,526			
Mort. Ins. 005	(4,188)	96.25%			(4,031)	
Mort. Ins. 005	(4,560)	75.55%				(3,445)
Mort. Ins. 005	(4,560)	9.58%				(437)

7. MORTGAGE INSURANCE EXPENSE ALLOWANCES

Mortgage insurance expense was based on the rate year costs in the rates promulgated by the BLTCR. BLTCR adjusted the mortgage insurance for the portion on the second mortgage that relates to the ADHC. However, the wing addition comprises nursing facility beds, the ADHC, and a Vent unit. Because the Vent capital per diem is based on the Nursing Facility capital per diem rate the audit revised the BLTCR adjustment that related to the Vent unit. Consequently, allowances were necessary.
Regulation: 10 NYCRR Section 86-2.20

8. INVESTMENT INCOME OFFSET

Interest expense shall be reduced by investment income with the exception of income earned by funded depreciation accounts and certain other restricted funds. Unrestricted income earned by the Facility was not offset in the promulgated rates. Consequently, an investment income offset was necessary.
Regulations: 10 NYCRR Section 86-2.20(c), PRM-1 Section 202.2

Inv. Inc. Offset 003	5,035	97.06%			4,887	
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9. NON-PATIENT CARE COST DISALLOWANCES

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. The Facility operates an Adult Day Health Care (ADHC) program. Costs pertaining to the ADHC are not related to patient care of the nursing facility and should not be included in the nursing facility rate computation. An adjustment was necessary to exclude costs not properly chargeable to nursing facility patient care. Consequently, disallowances were necessary.
Regulations: 10 NYCRR Section 86-2.17(a) and PRM-1, Section 2102.3

Direct Chg. 051	3,277	100%	3,277			
Direct Chg. 051	17,953	100%		17,953		
Direct Chg. 051	31,559	100%			31,559	

Total Disallowances/(Allowances)
AUDITED PROPERTY EXPENSE

\$ (144,059)	\$ (101,256)	\$ (98,251)	\$ 55,664	\$ 5,965
\$ 5,611,929	\$ 5,824,245	\$ 5,892,078	\$ 4,785,548	\$ 751,379

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES) - VENTILATOR UNIT

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
				2002	2003
				\$ 5,416,527	\$ 5,624,838
				230,100	230,100

Adjusted Property Expense Nursing Facility
 Add: Ventilator Specific Costs

Less Disallowances/(Allowances):

1. MOVABLE EQUIPMENT DEPRECIATION DISALLOWANCES

The ventilator unit is reimbursed in full for the nursing facility property component of the rate for rate years 2002 through 2004, plus additional ventilator specific costs. The Bureau of Long Term Care Reimbursement (BLTCR) allowed an additional \$19,500 in movable equipment depreciation. The audit disallowed this based on the fact the vent unit is getting the full capital cost per diem from the nursing facility. Consequently, disallowances were necessary.

Regulation: 10 NYCRR Section 86-2.19 (a)

ME Depr.	005	\$19,500	100%	19,500	
ME Depr.	005	19,500	100%		19,500

2. EQUIPMENT RENTAL ADJUSTMENTS

The ventilator unit is reimbursed in full for the nursing facility property component of the rate for rate years 2002 through 2004, plus additional ventilator specific costs. BLTCR allowed amounts that varied from reported ventilator unit equipment rentals. Consequently, adjustments were necessary.

Regulations: PRM-1 Sections 2102.2, 2102.3, 2300 and 2304

Rent A	005	97,720	100%	97,720	
Rent B	005	(45,505)	100%		(45,505)

Total Disallowances/(Allowances) - Ventilator Unit

AUDITED PROPERTY EXPENSE VENTILATOR UNIT

\$ 117,220	\$ (26,005)
\$ 5,529,407	\$ 5,880,943

GURWIN JEWISH GERIATRIC CENTER
RATE PERIODS JANUARY 1, 2002 THROUGH DECEMBER 31, 2005
CORRECTION OF PATIENT DAYS

The audit of patient day statistics disclosed that BLTCR did not include the Vent Unit's patient days in the total patient days used to determine the promulgated rate. The following adjustments were necessary to include the proper days in the rate calculations.

Regulation: 10 NYCRR Section 86-2.8(c)

	RATE YEARS		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Patient Days in Promulgated Rates	158,648	157,397	158,897
Patient Days per Audit	166,460	167,527	167,260
Understated Patient Days	7,812	10,130	8,363