



**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

January 30, 2014

[REDACTED]
Hempstead Park Nursing Home
800 Front Street
Hempstead, New York 11550

Re: Medicaid Rate Audit #10-2280
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 Hempstead Park Nursing Home's (the "Facility") Medicaid rates for the rate period January 1, 2005 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft audit report.

Since you did not respond to our draft audit report dated November 22, 2013, the findings in the final audit report remain identical to 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 \$361,332. This overpayment is subject to Department of Health ("DOH") and Division of Budget ("DOB") final approval. While not anticipated, any difference between the calculated overpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

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

January 30, 2014

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 #10-2280
Albany, New York 12237-0048

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

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

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

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

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

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

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

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

Should you have any questions, please contact [REDACTED] or through email at [REDACTED]. Please refer to audit number 10-2280 in all correspondence.

Sincerely,

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

Enclosure

- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Property Expense Disallowances/(Allowances)
- EXHIBIT IV - Return on and Return of Real Property Equity Disallowances/(Allowances)
- EXHIBIT V - Return on Average Equity Disallowances/(Allowances)

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Hempstead Park Nursing Home
800 Front Street
Hempstead, New York 11550

NPI #: [REDACTED]

PROVIDER #: [REDACTED]

AUDIT #10-2280

AMOUNT DUE: \$361,332

AUDIT	[] PROVIDER
TYPE	[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 #10-2280
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

HEMPSTEAD PARK NURSING HOME - AUDIT #10-2280
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED PART B & D NON-ELIGIBLE RATES*</u>	<u>FINAL PART B & D NON-ELIGIBLE RATES</u>	<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
01/01/05 - 02/28/05	\$215.19	\$212.10	\$3.09	10,395	\$ 32,121
03/01/05 - 05/31/05	206.91	203.82	3.09	17,334	53,562
06/01/05 - 06/30/05	208.46	205.37	3.09	5,456	16,859
07/01/05 - 08/31/05	208.46	205.37	3.09	12,280	37,945
09/01/05 - 11/30/05	204.95	201.86	3.09	19,128	59,106
12/01/05 - 12/31/05	204.30	201.21	3.09	6,270	19,374
01/01/06 - 02/28/06	203.54	203.31	0.23	11,952	2,749
03/01/06 - 03/31/06	206.45	206.22	0.23	6,388	1,469
04/01/06 - 05/31/06	205.98	205.35	0.63	12,290	7,743
06/01/06 - 08/31/06	212.63	212.00	0.63	18,221	11,479
09/01/06 - 11/30/06	215.17	214.54	0.63	18,204	11,469
12/01/06 - 12/31/06	214.14	213.51	0.63	6,274	3,953
01/01/07 - 03/31/07	220.50	219.87	0.63	17,364	10,939
04/01/07 - 06/30/07	219.27	218.64	0.63	17,083	10,762
07/01/07 - 08/31/07	217.32	216.69	0.63	11,941	7,523
09/01/07 - 12/31/07	217.32	216.69	0.63	23,497	14,803
01/01/08 - 03/31/08	223.24	222.41	0.83	18,408	15,279
04/01/08 - 06/30/08	219.37	218.54	0.83	18,032	14,967
07/01/08 - 12/31/08	223.20	222.37	0.83	35,217	29,230
TOTAL MEDICAID OVERPAYMENT					<u>\$ 361,332</u>

* Any differences between these rates and the rates listed in Exhibit II of this audit report represent rate changes made subsequent to OMIG's audit. These changes remain open to future audit by the OMIG. For the purpose of this Exhibit, the Medicare Part B and D rates are not shown. The rate decrease/(increase) for those rates is the same as shown for the Medicare Part B and D non-eligible rates above.

HEMPSTEAD PARK NURSING HOME - AUDIT #10-2280
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 84 percent for the period under audit and the Medicaid per diem rates audited are shown below. Any differences between these rates and the "Issued Rates" listed in Exhibit I of this audit report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

<u>RATE PERIOD</u>	<u>ISSUED MEDICARE PART B & D NON-ELIGIBLE RATES *</u>
01/01/05 - 02/28/05	\$ 215.49
03/01/05 - 05/31/05	207.20
06/01/05 - 06/30/05	208.76
07/01/05 - 08/31/05	208.76
09/01/05 - 11/30/05	205.25
12/01/05 - 12/31/05	204.60
01/01/06 - 02/28/06	203.85
03/01/06 - 03/31/06	206.75
04/01/06 - 05/31/06	206.29
06/01/06 - 08/31/06	212.94
09/01/06 - 11/30/06	215.48
12/01/06 - 12/31/06	214.45
01/01/07 - 03/31/07	220.82
04/01/07 - 06/30/07	219.58
07/01/07 - 08/31/07	217.63
09/01/07 - 12/31/07	217.63
01/01/08 - 03/31/08	223.55
04/01/08 - 06/30/08	219.69
07/01/08 - 12/31/08	223.52

* 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.

HEMPSTEAD PARK NURSING HOME - AUDIT #10-2280
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

COST CTR.	RATE PERIODS			
	01/01/05 12/31/05	01/01/06 03/31/06	04/01/06 12/31/06	01/01/07 12/31/07
	\$ 948,925	\$ 685,549	\$ 685,549	\$ 1,037,766
				\$ 1,150,199

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

1. EQUIPMENT RENTAL EXPENSE DISALLOWANCES

a. 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 did not provide sufficient documentation justifying the relationship of reported automobile expenses to patient care. Costs pertaining to a luxury automobile are not related to patient care and were disallowed.
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3 & 2105.9

b. Oxygen gas expense was included within the reported rental expenses for oxygen concentrators. Oxygen gas is an operating expense and was disallowed from the property component of the rate.
Regulations: 10 NYCRR Sections 86.2.10, 455.35, & 458.5

2. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE

a. Working capital interest expense allowed in the promulgated rates exceeded the threshold limitation. Consequently a disallowance was necessary to adjust the interest expense to the maximum level.
Regulation: 10 NYCRR Section 86-2.20

b. Effective April 1, 2006 and thereafter, rates shall not contain a payment factor for working capital interest if the RHC-4 report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income. The Facility had a positive net income for cost year 2004. Consequently, working capital interest expense was disallowed.
Regulations: 10 NYCRR Section 86-2.17(d), Public Health Law, Section 2808, Paragraph 22(a)

3. INVESTMENT INCOME OFFSET REVERSAL

Reported investment income was appropriately offset against interest expense in the 2006 promulgated rate. However, adjustment #2b disallowed all interest expense. Consequently, it was necessary to reverse the offset of investment income in the 2006 rate computation.
Regulation: 10 NYCRR Section 86-2.20

4. DIRECT ASSIGNMENT DISALLOWANCE

Expense shall be reduced by the cost of services and activities which are not properly chargeable to patient care. In rate year 2005, the Facility leased space to a private physician's office. Costs pertaining to the physician's office are not related to patient care of the nursing facility and should not be included in the facility's rate computation. An adjustment is necessary to exclude these non-allowable costs.
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2102.3

Rent A	006	5,116	2,919	2,919	5,070	6,332
Rent C	006					

Rent C	043		8,014	8,014		
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WCI	005	234,531				
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WCI	005			33,885		
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Invest. Inc.	005				(966)	
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Direct Assign.	001		636			
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HEMPSTEAD PARK NURSING HOME - AUDIT #10-2280
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	COST CTR.	RATE PERIODS					
		01/01/05	01/01/06	04/01/06	01/01/07	01/01/08	12/31/08
<p>5. SALES TAX DISALLOWANCES</p> <p>a. Certain products and services associated with energy sources provided to long-term care facilities are exempt from New York State sales tax if the facilities are considered to be residential. The reduced sales tax rate of zero percent applies to energy sources and services purchased for use at any long-term care facility which falls within the definition of a health related facility or nursing home as defined by public health law. Taxes for which there is an exemption available are not allowable for reimbursement purposes. Consequently, disallowances were necessary. Regulations: 10 NYCRR Section 86-2.17(a), TSB-A-90(60)S, Sales & Use-Rate of Tax-Residential Energy Sources-Long Term Treatment Facilities & PRM-1 Section 2122.2D</p>	005	12,240					13,315
<p>b. 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 sales tax varied from the sales tax expense allowed in the rate resulting in a disallowance. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304</p>	005						4,141
<p>6. RETURN ON AND RETURN OF EQUITY DISALLOWANCES</p> <p>A proprietary facility is entitled to return on equity for capital invested for the necessary and proper operation for patient care activities. The accumulated real property reimbursement was adjusted to audited figures. As a result, the returns on and of real property equity were adjusted accordingly. (Refer to Exhibit IV) Regulation: 10 NYCRR Section 86-2.21</p>	003 001	231 1,560	290 3,252	290 3,252	5,342 43,602	3,249 46,281	
<p>7. RETURN ON AVERAGE EQUITY DISALLOWANCES</p> <p>The Facility received a return on average equity in the 2006 promulgated rate. The Commissioner has determined that goodwill is not reimbursable for Medicaid. The elimination of goodwill from the rate calculations resulted in the disallowance of the return on average equity. (Refer to Exhibit V) Regulations: 10 NYCRR Sections 86-2.17(d) & 86-2.28</p>	002		4,467	4,467			
Total Disallowances/(Allowances)		\$ 254,314	\$ 18,942	\$ 51,861	\$ 54,014	\$ 73,318	
TOTAL AUDITED PROPERTY EXPENSE		\$ 694,611	\$ 666,607	\$ 633,688	\$ 983,752	\$ 1,076,881	

HEMPSTEAD PARK NURSING HOME - AUDIT #10-2280
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)

	RATE PERIODS			
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<u>Return of Equity Calculation</u>				
Real Property Historical Cost per HE-12B	\$ 4,236,783	\$ 4,332,563	\$ 4,399,278	\$ 4,431,668
Audit Disallowances/(Allowances)	-	-	-	-
Audited Historical Cost	\$ 4,231,323	\$ 4,322,874	\$ 4,375,138	\$ 4,431,668
Less: Accumulated Reimbursement	<u>3,330,402</u>	<u>3,587,808</u>	<u>3,881,834</u>	<u>4,046,269</u>
Audited Net Equity	\$ 900,921	\$ 735,066	\$ 493,304	\$ 385,399
Remaining Useful Life	<u>3.5</u>	<u>2.5</u>	<u>3</u>	<u>2</u>
Audited Return of Equity	\$ 257,406	\$ 294,026	\$ 164,435	\$ 192,700
Promulgated Return of Equity	<u>258,966</u>	<u>297,278</u>	<u>208,037</u>	<u>238,981</u>
Disallowance/(Allowance)	<u>\$ 1,560</u>	<u>\$ 3,252</u>	<u>\$ 43,602</u>	<u>\$ 46,281</u>
 <u>Return on Equity Calculation</u>				
Audited Net Equity	\$ 900,921	\$ 735,066	\$ 493,304	\$ 385,399
Less: ½ Current Return of Equity	<u>128,703</u>	<u>147,013</u>	<u>82,218</u>	<u>96,350</u>
Audited Net Investment	\$ 772,218	\$ 588,053	\$ 411,086	\$ 289,049
Rate of Return	<u>4.95%</u>	<u>4.45%</u>	<u>4.90%</u>	<u>4.68%</u>
Audited Return on Equity	\$ 38,225	\$ 26,168	\$ 20,143	\$ 13,527
Promulgated Return on Equity	<u>38,456</u>	<u>26,458</u>	<u>25,485</u>	<u>16,776</u>
Disallowance/(Allowance)	<u>\$ 231</u>	<u>\$ 290</u>	<u>\$ 5,342</u>	<u>\$ 3,249</u>

HEMPSTEAD PARK NURSING HOME - AUDIT #10-2280
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
RETURN ON AVERAGE EQUITY DISALLOWANCES/(ALLOWANCES)

	<u>RATE PERIOD</u>
	<u>2006</u>
Average Equity per HE-12B	\$ 1,109,511
Audit Disallowances:	
• Due To Parent/Affiliate	1,290,000
• Due From Parent/Affiliate	1,475,176
• CDs / Investments	210,974
• Other - Goodwill	<u>1,951,389</u>
Audited Average Equity	\$ (1,238,028)
Less: Audited Net Investment	<u>588,053</u>
Audited Remaining Equity	\$ (1,826,081)
Rate of Return	<u>3.76%</u>
Return on Average Equity Per Audit	-
Return on Average Equity Per HE-12B	<u>4,467</u>
Disallowance/(Allowance)	<u>\$ 4,467</u>