



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
90 Church Street, 14th Floor
New York, New York 10007

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

July 1, 2013

[REDACTED]
River Valley Care Center, Inc.
140 Main Street
Poughkeepsie, New York 12601

Re: Medicaid Rate Audit #08-4251
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 River Valley Care Center, Inc.'s (the "Facility") Medicaid rates for the rate period March 2, 2004 through December 31, 2007. In accordance with 18 NYCRR Section 517.6, this final audit report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated December 4, 2012, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A); however, consideration of your comments resulted in no reduction to the 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 \$427,646. However, this audit also processed Bureau of Long Term Care appeals that resulted in an amount due the Facility of \$48,353. Consequently, based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$379,293. This overpayment is subject to Department of Health (the "DOH") and Division of Budget (the "DOB") final approval. While not anticipated, any difference between the calculated overpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

The overpayment does not reflect the impact on rates subsequent to 2007 that utilized the March 2, 2004 through March 1, 2005 base period for operating expense. Any overpayment resulting from operating expense disallowances in the March 2, 2004 through March 1, 2005 base period report for rates subsequent to 2007 will be addressed in the future.

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

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

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #08-4251
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]

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

Enclosure

- ATTACHMENT A - Facility Draft Report Comments and OMIG Response
- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)
- EXHIBIT V - Return on and Return of Real Property 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

River Valley Care Center, Inc.
140 Main Street
Poughkeepsie, New York 12601

NPI #: [REDACTED]
PROVIDER #: [REDACTED]

AUDIT #08-4251

AMOUNT DUE: \$379,293

AUDIT	<input type="checkbox"/>	PROVIDER
TYPE	<input checked="" type="checkbox"/>	RATE
	<input type="checkbox"/>	PART B
	<input type="checkbox"/>	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 #08-4251
Albany, New York 12237-0048

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

[REDACTED]
CORRECT PROVIDER NUMBER

**RIVER VALLEY CARE CENTER, INC. – AUDIT #08-4251
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 the final audit report adjustments after consideration of the Facility's draft audit report response comments.

EXHIBIT III COMMENTS

Adjustment #1- Utilization Review Disallowance

Facility Comment

We have attached a Utilization Review Department Plan. The Utilization Review Department has used this plan since our base period. We request that the adjustment to reclass our Utilization Review department costs to Nursing Administration be eliminated, and our Utilization Review Department reimbursement be included in our non-comparable reimbursement for the base period and all subsequent years.

OMIG Response

The Utilization Review Department Plan submitted by the facility does not establish that utilization reviews were actually conducted or how the reported expense was derived. Previously requested documents include actual utilization review case records, certifications of the utilization review agent, reviewers' job description and time studies used in the allocation of salaries. Documentation of this nature has not been provided.

Disposition: The draft report adjustment remains the same.

EXHIBIT IV COMMENTS

Adjustment # 7 – Mortgage Expense Amortization Disallowances:

Facility Comment

During construction, HUD makes escrow requirements related to the project. River Valley satisfied those escrow requirements by providing a letter of credit from the bank. Please see the attached page from the HUD – MAP (Multifamily Accelerated Processing) guide. The highlighted sections from Item M1 and M2 explain the HUD requirement during the construction phase. Therefore, please remove this adjustment, and allow the reimbursement of mortgage expense amortization for 2004 through 2007.

OMIG Response

The page from the HUD – MAP guide stated that the general contractor shall provide an assurance of completion of construction and this may be in the form of a Letter of Credit. The expenses associated with a Letter of Credit would normally be included in the total project costs compiled by the developer. Furthermore, the beneficiary of the project, that is the Facility or its principals, is not required to open a Letter of Credit. Hence, this expense, though necessary for the general contractor, was not necessary for the Facility. The Facility still has not given a definitive requirement of HUD for the establishment of a Letter of Credit by the Facility and hence the cost associated with it is disallowed.

Disposition: The draft report adjustment remains the same.

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
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>
03/02/04 - 03/31/04	\$188.27	\$185.26	\$3.01	3,071	\$ 9,244
04/01/04 - 06/30/04	190.66	187.65	3.01	8,963	26,979
07/01/04 - 09/30/04	191.70	188.69	3.01	9,550	28,746
10/01/04 - 12/31/04	187.69	184.68	3.01	10,800	32,508
01/01/05 - 03/31/05	197.08	193.98	3.10	11,280	34,968
04/01/05 - 06/30/05	187.87	184.77	3.10	10,898	33,784
07/01/05 - 09/30/05	190.98	187.88	3.10	11,251	34,878
10/01/05 - 12/31/05	187.13	184.03	3.10	10,862	33,672
01/01/06 - 03/31/06	194.18	190.98	3.20	9,401	30,083
04/01/06 - 06/30/06	193.82	190.62	3.20	8,914	28,525
07/01/06 - 09/30/06	195.02	191.82	3.20	7,243	23,178
10/01/06 - 12/31/06	199.53	196.33	3.20	8,088	25,882
01/01/07 - 03/31/07	206.83	205.71	1.12	8,330	9,330
04/01/07 - 06/30/07	205.89	204.78	1.11	8,529	9,467
07/01/07 - 08/31/07	203.93	202.82	1.11	5,479	6,082
09/01/07 - 12/31/07	203.93	202.82	1.11	10,781	11,967
TOTAL MEDICAID OVERPAYMENT					<u>\$ 379,293</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.

NOTE: Of the total Medicaid impact listed above, the impact associated with the processing of Bureau of Long Term Care open appeals is \$48,353.

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 71 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>
03/02/04 - 03/31/04	\$ 188.27
04/01/04 - 06/30/04	190.66
07/01/04 - 09/30/04	191.70
10/01/04 - 12/31/04	187.69
01/01/05 - 03/31/05	197.08
04/01/05 - 06/30/05	187.87
07/01/05 - 09/30/05	190.98
10/01/05 - 12/31/05	187.13
01/01/06 - 03/31/06	194.18
04/01/06 - 06/30/06	193.82
07/01/06 - 09/30/06	195.02
10/01/06 - 12/31/06	199.53
01/01/07 - 03/31/07	206.83
04/01/07 - 06/30/07	205.89
07/01/07 - 12/31/07	203.93

* 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.

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
 RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
 OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

OPERATING EXPENSE COMPONENT			
	DIRECT	INDIRECT	NON-COMP.
\$ 6,292,556	\$ 3,104,513	\$ 633,084	

DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %
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Operating Expense Allowed per HE-12B
 Less Disallowances/(Allowances):

UTILIZATION REVIEW DISALLOWANCE

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. The Facility did not provide adequate documentation to substantiate reported Utilization Review expenses. Consequently, disallowances were necessary.

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

Util. Rev. 020	\$72,602	100.00%	72,602
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\$ -	\$ -	\$ 72,602
\$ 6,292,556	\$ 3,104,513	\$ 560,482

Total Disallowances/(Allowances)
AUDITED OPERATING EXPENSE BY COMPONENT

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	CTR.	COST DISALLOWED TRACE- (ALLOWED)	RATE PERIODS			
			2004	2005	2006	2007
			\$ 1,927,068	\$ 1,924,644	\$ 1,917,905	\$ 2,109,720

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

**Disallowances/(Allowances) Related to Processing of Bureau of
Long Term Care (BLTCR) Open Appeals**

1. MOVABLE EQUIPMENT DEPRECIATION ALLOWANCE

The Facility appealed to have the movable equipment depreciation expense for the cost year 2005, not included in its corresponding RHCFA-4, reimbursed for the 2007 rate year. The basis for this appeal, per the Facility, is the fact that its Approved Project Costs dated July 25, 2001 had included movable equipment of \$800,200 and the depreciation expense was not reimbursed in the 2007 rate. This allowance was contingent upon the Facility's written withdrawal of this particular item from its Appeal #10916 with the BLTCR. The Facility withdrew the appeal in a letter to BLTCR dated January 10, 2013.
Regulation: 10 NYCRR Section 86-2.17(a)

BLTCR Open Appeals Allowance
Subtotal Property Expense

ME Depr.	002	(80,020)	98.05%				(78,460)
				\$ 1,927,068	\$ 1,924,644	\$ 1,917,905	\$ 2,188,180

Other OMIG Audit Disallowances/(Allowances)

2. MORTGAGE INTEREST EXPENSE AND AMORTIZATION DISALLOWANCES

The promulgated rate was calculated using no overmortgaging percentage. The OMIG calculated an overmortgaging percentage of 96.22%. In addition, the review disclosed the rate year mortgage interest expense and amortization payments allowed in the promulgated rates varied from audited rate year amounts. The differences along with the application of the overmortgaging percentage resulted in disallowances.

Regulations: 10 NYCRR Sections 86-2.20(a), 86-2.17(a), and 86-2.21

Mort. Int.	002	48,082	98.28%				
Mort. Int.	002	47,416	98.28%		46,600		
Mort. Int.	002	45,698	98.28%			45,895	
Mort. Int.	001	45,924	98.04%				45,024
Mort. Amort.	006	7,943	98.25%				
Mort. Amort.	006	8,583	98.25%		8,433		
Mort. Amort.	006	9,272	98.25%			9,109	
Mort. Amort.	001	10,014	98.04%				9,817

3. PROPERTY INSURANCE DISALLOWANCES

The Facility's property insurance included crime insurance. Crime insurance is an operating expense and is not allowable in the property component. Consequently, crime insurance that was included in property insurance expense was disallowed.

Regulations: 10 NYCRR Sections 86-2.10(g), 86-2.17(a) and (d), PRM-1 Sections 2161 and 2806.2

Prop. Ins.	006	1,083	98.25%		1,064		
Prop. Ins.	005	1,380	97.30%				1,343

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	CTR.	COST DISALLOWED TRACE- (ALLOWED)	BACK %	RATE PERIODS		
				2004	2005	2006
Ret. On Eq.	002	4,584	98.28%	4,504		
Ret. On Eq.	002	6,250	98.28%		6,142	
Ret. On Eq.	002	7,275	98.28%			7,149
Ret. Of Eq.	002	2,438	98.28%	2,395		
Ret. Of Eq.	002	3,556	98.28%		3,494	
Ret. Of Eq.	002	4,739	98.28%			4,656
ME Depr.	002	2,559	98.28%	2,515		
ME Depr.	002	1,530	98.05%			1,500

4. RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES
 Accumulated real property reimbursement for rate years 2004, 2005, and 2006 was not included in calculations for return on and return of equity. Consequently, adjustments were necessary. (Refer to Exhibit V)
Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.21

5. MOVABLE EQUIPMENT DEPRECIATION DISALLOWANCES
 Costs not related to patient care are costs that are not appropriate or necessary in the development and maintenance of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. Providers receiving payment based on reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Supporting documentation provided for a portion of reported depreciation was not adequate. As a result, depreciation expense that could not be verified was disallowed.
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2300, and 2304

6. MOVABLE EQUIPMENT RENTAL EXPENSE DISALLOWANCES
 Providers receiving payment 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. Furthermore, the cost information must be current, accurate, and in sufficient detail. The movable equipment rental expense included lease payment for a Subaru Legacy. The Facility was unable to provide adequate documentation to substantiate the vehicle usage for nursing home business. Only documented nursing home business use is allowable in the property component. Consequently, disallowances were necessary.
Regulations: 10 NYCRR Sections 86-2.17 (a) and (d), PRM-1 Sections 2102.3 and 2105.9

7. MORTGAGE EXPENSE AMORTIZATION DISALLOWANCES
 The Facility was unable to provide documentation from HUD that indicated that a letter of credit was needed during the construction phase of the Facility. Providers who receive payments on the basis of reimbursable cost must provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility did not provide adequate documentation to substantiate reported mortgage expense amortization resulting in disallowances.
Regulations: 10 NYCRR Sections 86-2.17(a) and (d), PRM-1 Sections 2102.3, 2300 and 2304

ME Rent	005	3,732	98.10%	3,661	3,661	3,661
Mort. Ex. Am.	006	15,669	98.25%	15,395	15,395	15,395

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	CTR.	COST DISALLOWED TRACE- (ALLOWED)	BACK %	RATE PERIODS			
				2004	2005	2006	2007
8. SALES TAX DISALLOWANCES							
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 disallowances.							
Sales Tax	005	1,172	98.10%	1,150	1,150	1,150	838
Sales Tax	005	861	97.30%				
9. INVESTMENT INCOME OFFSET							
Interest expense shall be reduced by investment income with exception of income earned by funded depreciation accounts and certain other restricted funds. The OMIG determined that reported unrestricted investment income was not appropriately offset against interest expense in the promulgated rates. Consequently, the unrestricted investment income was offset against interest expense.							
Invest. Inc.	002	2,456	98.28%	2,414	2,414	2,414	
Other OMIG Property Expense Disallowances/(Allowances)							
				\$ 88,157	\$ 90,868	\$ 93,008	\$ 58,522
TOTAL AUDITED PROPERTY EXPENSE				\$ 1,838,911	\$ 1,833,776	\$ 1,824,897	\$ 2,129,658

RIVER VALLEY CARE CENTER, INC. - AUDIT # 08-4251
RATE PERIODS MARCH 2, 2004 THROUGH DECEMBER 31, 2007
RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)

	RATE PERIODS			
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
<u>Return of Equity Calculation</u>				
Real Property Historical Cost per HE-12B	\$ 18,830,059	\$ 18,830,059	\$ 18,830,059	\$ 18,830,059
Audit Disallowances/(Allowances)	-	-	-	-
Audited Historical Cost	\$ 18,830,059	\$ 18,830,059	\$ 18,830,059	\$ 18,830,059
Less: Recognized Mortgage	\$ 17,341,200	\$ 17,341,200	\$ 17,341,200	\$ 17,341,200
Less: Accumulated Reimbursement	90,240	128,041	165,842	203,642
Audited Net Equity	\$ 1,398,619	\$ 1,360,818	\$ 1,323,017	\$ 1,285,217
Remaining Useful Life	37	36	35	34
Audited Return of Equity	\$ 37,801	\$ 37,801	\$ 37,800	\$ 37,801
Promulgated Return of Equity	40,239	41,357	42,539	37,801
Disallowance/(Allowance)	<u>\$ 2,438</u>	<u>\$ 3,556</u>	<u>\$ 4,739</u>	<u>\$ -</u>
<u>Return on Equity Calculation</u>				
Audited Net Equity	\$ 1,398,619	\$ 1,360,818	\$ 1,323,017	\$ 1,285,217
Less: ½ Current Return of Equity	18,900	18,900	18,900	18,900
Audited Net Investment	\$ 1,379,719	\$ 1,341,918	\$ 1,304,117	\$ 1,266,317
Rate of Return	5.15%	4.95%	4.45%	4.90%
Audited Return on Equity	\$ 71,056	\$ 66,425	\$ 58,033	\$ 62,049
Promulgated Return on Equity	75,640	72,675	65,308	62,049
Disallowance/(Allowance)	<u>\$ 4,584</u>	<u>\$ 6,250</u>	<u>\$ 7,275</u>	<u>\$ -</u>