STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

March 10, 2011

Mr. Steven Reynolds, Administrator
Bethany Gardens Skilled Living Center
800 West Chestnut Street
Rome, New York 13440

Re: Medicaid Rate Audit #07-4961
NPI Number: [redacted]
Provider Number: [redacted]

Dear Mr. Reynolds:

Enclosed is the final audit report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Bethany Gardens Skilled Living Center's (the "Facility") Medicaid rates for the rate period September 1, 2002 through December 31, 2006. 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 October 26, 2010, you identified specific audit findings with which you disagreed. Your comments have been considered and the report has been either revised accordingly and/or amended to address your comments. Consideration of your comments resulted in a reduction of $256,634 to the Medicaid overpayment. 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 $489,096. 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 December 31, 2006 that utilized the September 1, 2002 through August 31, 2003 base period for operating expense. Any overpayment resulting from operating expense disallowances in the September 1, 2002 through August 31, 2003 base period report for rates subsequent to December 31, 2006 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:

Mr. Donald Collins
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #07-4961
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
Phone #: (518) 474-5878
Fax#: (518) 408-0593

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 Charlene D. Fleszar, Esq. of the Office of Counsel at (518) 408-5811.

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 Mr. Tony Lupino at (518) 486-9565.

Sincerely,

Paul E. Barry
Coordinator Medical Facilities Audit
Division of Medicaid Audit
Audit Management and Development
Office of the Medicaid Inspector General

Attachments:

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 - Correction of Patient Days

CERTIFIED MAIL #7009-0080-0000-0373-2058
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

BETHANY GARDENS SKILLED LIVING CENTER
800 WEST CHESTNUT STREET
ROME, NEW YORK 13440

NPI #[redacted]
PROVIDER #[redacted]

AUDIT #07-4961

AUDIT TYPE

[ ] PROVIDER
[X] RATE
[ ] PART B
[ ] OTHER:

AMOUNT DUE: $489,096

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:

Mr. Donald Collins
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #07-4961
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

	ISSUED RATES*		FINAL RATES		RATE		
	Medicare Part B		Medicare Part B		DECREASE	MEDICAID	MEDICAID
RATE PERIOD	Non-Elig.	Eligible	Non-Elig.	Eligible	(INCREASE)	DAYS	OVERPAYMENT
09/01/02 - 09/30/02	$106.77	$106.76	$102.36	$102.35	$4.41	1,728	$ 7,620
10/01/02 - 12/31/02	110.43	110.42	105.98	105.97	4.45	5,682	25,285
01/01/03 - 03/31/03	110.59	110.58	106.61	106.60	3.98	6,554	26,085
04/01/03 - 06/30/03	112.96	112.95	108.97	108.96	3.99	7,040	28,090
07/01/03 - 09/30/03	119.13	119.12	115.05	115.04	4.08	7,423	30,286
10/01/03 - 12/31/03	120.53	120.52	116.46	116.45	4.07	7,431	30,244
01/01/04 - 03/31/04	126.24	126.23	120.42	120.41	5.82	7,368	42,882
04/01/04 - 06/30/04	127.71	127.70	122.03	122.02	5.68	7,189	40,834
07/01/04 - 08/31/04	128.03	128.02	122.35	122.34	5.68	5,020	28,514
09/01/04 - 09/30/04	130.49	130.48	126.49	126.48	4.00	2,484	9,936
10/01/04 - 12/31/04	130.35	130.34	126.35	126.34	4.00	7,375	29,500
01/01/05 - 03/31/05	131.02	131.01	126.89	126.88	4.13	6,731	27,799
04/01/05 - 06/30/05	133.79	133.78	129.64	129.63	4.15	6,796	28,203
07/01/05 - 07/26/05	137.60	137.59	133.45	133.44	4.15	1,876	7,785
07/27/05 - 09/30/05	137.60	137.59	133.45	133.44	4.15	4,990	20,709
10/01/05 - 12/31/05	137.80	137.79	133.65	133.64	4.15	7,010	29,092
01/01/06 - 03/31/06	142.20	142.19	139.40	139.39	2.80	6,563	18,376
04/01/06 - 06/30/06	140.71	140.70	137.81	137.80	2.90	6,654	19,297
07/01/06 - 09/30/06	142.25	142.24	139.33	139.32	2.92	6,694	19,546
10/01/06 - 12/31/06	143.31	143.30	140.36	140.35	2.95	6,445	19,013
TOTAL MEDICAID OVERPAYMENT							**$ 489,096**

* Any differences between these rates and the rates listed in Exhibit II of this report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

EXHIBIT II

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 77 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.

	ISSUED RATES	
	Medicare Part B	
RATE PERIOD	Non-Elig.	Eligible
09/01/02 - 09/30/02	$106.77	$106.76
10/01/02 - 12/31/02	110.43	110.42
01/01/03 - 03/31/03	110.59	110.58
04/01/03 - 06/30/03	112.96	112.95
07/01/03 - 08/31/03	119.13	119.12
09/01/03 - 09/30/03	119.13	119.12
10/01/03 - 12/31/03	120.53	120.52
01/01/04 - 03/31/04	126.24	126.23
04/01/04 - 06/30/04	127.71	127.70
07/01/04 - 08/31/04	128.03	128.02
09/01/04 - 09/30/04	130.49	130.48
10/01/04 - 12/31/04	130.35	130.34
01/01/05 - 03/31/05	131.02	131.01
04/01/05 - 06/30/05	133.79	133.78
07/01/05 - 07/26/05	137.60	137.59
07/27/05 - 09/30/05	137.60	137.59
10/01/05 - 12/31/05	137.80	137.79
01/01/06 - 03/31/06	142.20	142.19
04/01/06 - 06/30/06	140.71	140.70
07/01/06 - 09/30/06	142.25	142.24
10/01/06 - 12/31/06	143.31	143.30

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP.
Operating Expense Allowed per HE-12B			$ 2,979,419	$ 1,348,473	$ 354,685
Less Disallowances/(Allowances):					
1. OUT OF PERIOD COSTS 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. **Regulations: 10 NYCRR Sections 86-2.4 & 2.17(d), PRM-1 Sections 2300, 2302.1, & 2304**	Fiscal	004		2,393	
	Admin. Svcs.	005		1,166	
	Plant Oper.	006		8,299	
	Housekeeping	010		1,871	
	Patient Food	011		29,354	
2. UNSUBSTANTIATED COST 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 costs varied from the amount reported by the Facility. The Facility did not provide adequate documentation to substantiate reported expense. Consequently, the unsubstantiated expenses were disallowed. **Regulations: PRM-1 Sections 2300 and 2304, 10 NYCRR Section 86-2.17(a)**	Fiscal	004		2,370	
	Admin. Svcs.	005		5,709	
	Plant Oper.	006		7,938	
	Laundry	009		14,790	
	Patient Food	011		14,470	
	Utilities	006			941
	Medical Director	017			17,000
3. RADIOLOGY EXPENSE DISALLOWANCE					
Costs not reasonably related to efficient production of services because of the nature or amount of expense are not allowable. The Facility reported radiology expense on its RHCF-4 Report. However, radiology expense is not allowable because it is an ancillary service that was to be excluded from the Facility's September 1, 2002 through 2006 rates. In addition, the expense did not apply to Medicaid patients. Consequently, the expense is not allowable for Medicaid reimbursement and was disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a) and (d)**	Radiology	034			6,440

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

			OPERATING EXPENSE COMPONENT		
	DESCRIPTION	COST CENTER	DIRECT	INDIRECT	NON-COMP.
4. LATE FEES DISALLOWANCES					
Only necessary and properly chargeable interest expense is an allowable cost. Interest expense related to the late payment of existing liabilities is not necessary and not properly chargeable to patient care. Therefore, the expense was disallowed. **Regulations: PRM-1 Sections 202.2 & 2103; 10 NYCRR Sections 86-2.17(a) & (d)**	Admin. Svcs.	005		53	
	Utilities	006			2,414
5. RECLASSIFICATION OF GENERAL LIABILITY INSURANCE					
General liability insurance is an operating expense. Since general liability insurance was included in property insurance in the promulgated rates, a reclassification from the property component of the rate to the operating component was necessary. See Exhibit IV, Adjustment 2(a). **Regulations: 10 NYCRR Section 455.5, PRM-1 Section 2161**	Admin. Svcs.	005		(39,730)	
6. ADMINISTRATIVE SALARY CEILING ALLOWANCE					
Administrative salaries were held to a ceiling in the promulgated rates. The audit disclosed that the incorrect salary and ceiling was applied. Application of the correct salary and ceiling resulted in an allowance. **Regulation: 10 NYCRR Section 86-2.10(3)(ii).**	Admin. Svcs.	005		(34,667)	
Total Disallowances/(Allowances)			$ -	$ 14,016	$ 26,795
AUDITED OPERATING EXPENSE BY COMPONENT			$ 2,979,419	$ 1,334,457	$ 327,890

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 09/01/02 12/31/02	01/01/03 12/31/03	01/01/04 08/31/04	09/01/04 12/31/04	01/01/05 12/31/05	01/01/06 03/31/06	04/01/06 12/31/06
Property Expense Allowed on HE-12B			$ 275,241	$ 281,103	$ 281,484	$ 364,897	$364,897	$ 347,910	$347,910
Less Disallowances/(Allowances):									
1. MORTGAGE INTEREST DISALLOWANCES									
According to the Bureau of Long Term Care Reimbursement (BLTCR) capital cost methodology, mortgage interest expense is reimbursed on a rate year basis. Audited rate year interest expense varied from the mortgage interest allowed in the rate computation process resulting in disallowances. **Regulation: 10 NYCRR Section 86-2.20**	Mort. Int.	003	8,149		57,254				
2. PROPERTY INSURANCE DISALLOWANCES									
a) General liability insurance is an operating expense. Since general liability insurance was included in property insurance in the promulgated rates, a reclassification from the property component of the rate to the operating component was necessary. See Exhibit III, Adjustment 5. **Regulations: 10 NYCRR Sections 86-2.10(g) & 455.5, PRM-1 Section 2161**	Property Ins.	006	39,730	39,730	39,730	39,730	39,730		
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. The Facility did not provide adequate documentation to substantiate reported property insurance expense. Consequently, disallowances were necessary. **Regulations: PRM-1 Sections 2300 and 2304, 10 NYCRR Section 86-2.17(a)**	Property Ins.	006	12,813	12,813	12,813	12,813	12,813	1,907	1,907
3. EQUIPMENT RENTAL DISALLOWANCES									
a) 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 office equipment rental expense varied from the amount reported by the Facility. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304**	Rent A Rent B	004 004	598	598	598	598	598	 468	 468
b) The Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense for residential health care facilities. 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 rental expense in the capital component amounts to duplicate reimbursement. Consequently, the following disallowances were necessary. **Regulation: 10 NYCRR Section 86-2.17(d)**	Rent A	005						5,956	5,956

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS 09/01/02 12/31/02	01/01/03 12/31/03	01/01/04 08/31/04	09/01/04 12/31/04	01/01/05 12/31/05	01/01/06 03/31/06	04/01/06 12/31/06
4. MORTGAGE AMORTIZATION EXPENSE DISALLOWANCE									
The analysis of NYS Housing Finance Agency statements disclosed that the amount included in the rate by the BLTCR for mortgage amortization exceeded actual audited amounts. Mortgage amortization was corrected to reflect the proper amounts. **Regulations: 10 NYCRR Sections 86-2.17(a) and 86-2.17(d), PRM-1 Section 2300**	Mort. Amort.	001	9,999						
5. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE									
a) 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 working capital expense varied from the amount reported by the Facility. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Sections 86-2.17(a) & 2.20(c), PRM-1 Sections 2300 & 2304**	WC Int. Exp.	005	4,425	4,425	4,425	4,425	4,425		
b) Effective April 1, 2006 and thereafter, rates shall not contain a payment factor for working capital interest if the RHCF report utilized to determine such payment factor also shows a positive net income. The Facility had a positive net income for cost year 2004. Consequently, working capital interest expense was disallowed. **Regulation: Public Health Law 2808-22a**	W/C Int. Exp.	005							4,933
6. INVESTMENT INCOME OFFSET REVERSAL									
Reported investment income was appropriately offset against interest expense in the original rate computation. However, adjustment #5b disallowed all interest expense. Consequently, it was necessary to reverse the offset of investment income imposed in the rate computation. **Regulation: 10 NYCRR Section 86.20(c)**	Inc. Offset	005							(49)
Total Disallowances/(Allowances)			$ 75,714	$ 57,566	$ 114,820	$ 57,566	$ 57,566	$ 8,331	$ 13,215
AUDITED PROPERTY EXPENSE			$ 199,527	$ 223,537	$ 166,664	$ 307,331	$ 307,331	$ 339,579	$ 334,695

EXHIBIT V

BETHANY GARDENS SKILLED LIVING CENTER

RATE PERIODS SEPTEMBER 1, 2002 THROUGH DECEMBER 31, 2006

CORRECTION OF PATIENT DAYS

The audit of patient day statistics disclosed that the patient days reported were understated in rate periods September 1, 2002 through December 31, 2005. The following adjustments were necessary to include the proper days in the rate calculations.

Regulation: 10 NYCRR Section 86-2.8(c)

	RATE PERIODS				
	09/01/02 12/31/02	01/01/03 12/31/03	01/01/04 08/31/04	09/01/04 12/31/04	01/01/05 12/31/05
Patient Days in Promulgated Rates	33,983	33,983	33,983	33,983	33,983
Patient Days per Audit	34,012	34,012	34,012	34,012	34,012
Understated Patient Days	29	29	29	29	29