



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

March 13, 2012

[REDACTED]
James Square Health and Rehabilitation Centre
918 James Street
Syracuse, New York 13203

Re: Medicaid Rate Audit #10 -7806
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 James Square Health and Rehabilitation Centre's (the "Facility") Medicaid rates for the rate period January 1, 2007 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.

In response to the draft audit report dated December 7, 2011, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A), and the consideration of your comments resulted in no reduction 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 \$80,870. 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 #10 -7806
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
- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Property Expense Disallowances/(Allowances)

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

James Square Health &
Rehabilitation Centre
918 James Street
Syracuse, New York 13203

NPI [REDACTED]
PROVIDER [REDACTED]

AUDIT #10-7806

AUDIT
TYPE

PROVIDER
 RATE
 PART B
 OTHER:

AMOUNT DUE: \$80,870

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 #10-7806
Albany, New York 12237-0048

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

[REDACTED]
CORRECT PROVIDER NUMBER

**JAMES SQUARE HEALTH AND REHABILITATION CENTRE - AUDIT #10-7806
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 #5 – Telephone Rental Expense Disallowances

Facility Comment

The 2005 and 2006 costs noted above are not operating costs. They are undeniably capital costs, as they are capitalized lease payments on a telephone system. In regards to the base, mean and ceiling prices, there are no telephone expenses included in the base, mean and ceiling prices to establish the indirect expense corridor. The costs used to determine the prices are the 2002 RHCF-4 expenses of all New York State facilities. In 2002, there were no capital costs for telephone included in the operating telephone expenses. Back in 1983, the prior statewide base period, the cost of operating minor telephone equipment was incorporated as a nominal charge on the monthly telephone bill. With the advancement of technology, telephone companies no longer bill a nominal charge for minor equipment. Instead, any entity that wants to provide even moderate telecommunication services incur significant equipment costs, not operating costs, not to mention software costs through a separate vendor. Therefore, we disagree with the proposed adjustment to disallow the capital cost of telephone equipment.

OMIG Response

The Bureau of Long Term Care Reimbursement methodology recognizes the telephone expense as the operating expense that is included in the indirect component of the promulgated rate calculation. The Facility base year is the cost year 1983 and the telephone expense was included in the indirect component of the rate then trended forward to the rate year by the applicable Facility inflation factor. Allowing the telephone rental expense in the capital portion would have been a duplication of the expense reimbursement. Therefore, no revisions were made to these disallowances.

Disposition: The final audit report disallowances remain the same as the draft audit report disallowances.

JAMES SQUARE HEALTH AND REHABILITATION CENTRE
RATE PERIODS JANUARY 1, 2007 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>
01/01/07 - 03/31/07	\$186.71	\$186.59	\$0.12	29,269	\$ 3,512
04/01/07 - 06/30/07	185.68	185.56	0.12	30,319	3,638
07/01/07 - 08/31/07	184.00	183.88	0.12	20,566	2,468
09/01/07 - 12/31/07	184.00	183.88	0.12	41,859	5,023
01/01/08 - 03/31/08	188.67	188.14	0.53	31,880	16,896
04/01/08 - 06/30/08	185.12	184.59	0.53	31,128	16,498
07/01/08 - 12/31/08	188.79	188.26	0.53	61,952	<u>32,835</u>
TOTAL MEDICAID OVERPAYMENT					<u>\$ 80,870</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.

JAMES SQUARE HEALTH AND REHABILITATION CENTRE
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 75 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>
01/01/07 - 03/31/07	\$ 186.71
04/01/07 - 06/30/07	185.68
07/01/07 - 08/31/07	184.00
09/01/07 12/31/07	184.00
01/01/08 - 03/31/08	188.67
04/01/08 - 06/30/08	185.12
07/01/08 - 12/31/08	188.79

* 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.

JAMES SQUARE HEALTH AND REHABILITATION CENTRE
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
					2007	2008
Property Expense Allowed per HE-12B						
Less Disallowances/(Allowances):						
1. MORTGAGE INTEREST EXPENSE ALLOWANCES						
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. This resulted in allowances.						
	Mort. Int.	003	(10,374)	97.39%	(10,103)	(9,838)
	Mort. Int.	003	(10,071)	97.69%		
Regulation: 10 NYCRR Section 86-2.20(a)						
2. PROPERTY INSURANCE ADJUSTMENTS						
a) 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 property insurance expense varied from the expense allowed in the rate computation process. This resulted in an allowance.						
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.2, 2300, and 2304						
	Prop. Ins.	005	(10,368)	99.05%	(10,270)	
b) 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. Property insurance pertaining to non-patient care programs should not have been included in the Facility's rate since it is not related to patient care at the Facility. Consequently, a disallowance was necessary.						
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2102.3						
	Prop. Ins.	005	699	99.49%		695
3. REAL ESTATE TAX EXPENSE ADJUSTMENTS						
Facilities receiving payment on the basis of reimbursable costs must provide adequate cost data based on financial and statistical records that can be verified on audit. In addition, the cost data is required to be current, accurate, and in sufficient detail. Real estate tax expense determined per audit varied from the expenses allowed in the rate computation process resulting in adjustments.						
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 and 2304						
	RE Taxes	006	1,722	97.26%	1,675	
	RE Taxes	006	(3,496)	97.55%		(3,410)
4. MOVABLE EQUIPMENT DEPRECIATION 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. The cost information must be current, accurate, and in sufficient detail. Movable equipment depreciation determined per audit varied from the expense allowed in the rate calculation process resulting in disallowances.						
Regulations: 10 NYCRR Sections 86-2.17(a) & (d), & 86-2.22, PRM-1 Sections 2300 and 2304						
	ME Depr.	002	2,455	97.38%	2,391	
	ME Depr.	002	1,901	97.69%		1,857
					\$ 1,285,349	\$ 1,295,615

JAMES SQUARE HEALTH AND REHABILITATION CENTRE
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
					2007	2008
5. TELEPHONE RENTAL EXPENSE DISALLOWANCES						
The BLTCR has determined that telephone expense is 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 expense in the capital component amounts to duplicate reimbursement. Consequently, telephone expenses were disallowed.	Rent A	002	15,492	97.38%	15,086	15,137
Regulation: 10 NYCRR Section 86-2.17(d)	Rent A	002	15,495	97.69%		
6. MOVABLE EQUIPMENT RENTAL EXPENSE ADJUSTMENTS						
Facilities 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. The cost information must be current, accurate, and in sufficient detail. Equipment rental expense determined on audit varied from the expenses allowed in the promulgated rates resulting in adjustments.	Rent A	002	16,380	97.38%	15,951	(4,422)
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2300 and 2304	Rent A	002	(4,527)	97.69%		(8,362)
	Rent B	004	(8,405)	99.49%		
	Rent B	004	(44)	99.05%	(44)	
	Rent C	005	372	99.05%	368	
	Rent D	006	(455)	97.55%	(444)	
	Rent D	006	(632)	97.55%		(617)
	Rent F	011	643	100.00%		643
	Rent I	019	2,188	99.00%	2,166	
	Rent K	035	357	95.91%	342	
	Rent K	035	2,614	100.00%		2,614
	Rent N	043	(7,802)	99.81%	(7,787)	
7. MORTGAGE AMORTIZATION ALLOWANCES						
Facilities receiving payments on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. Audited mortgage amortization expense varied from the expense allowed in the rate resulting in allowances.	Mort.Amort.	001	(5,425)	97.39%	(5,283)	
Regulations: 10 NYCRR Section 86-2.20(a), PRM-1 Sections 2300 and 2304	Mort.Amort.	001	(5,906)	97.69%		(5,770)
8. MORTGAGE INSURANCE EXPENSE ALLOWANCE						
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 audit of mortgage insurance expense disclosed that the actual expense exceeded amounts allowed in the established rates resulting in an allowance.	Mort. Ins.	005	(1,554)	99.05%	(1,539)	
Regulations: PRM-1 Sections 2102.3 and 2161						
9. INVESTMENT INCOME OFFSET						
Interest expenses 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 related company was not offset in the promulgated rates. Consequently, an investment income offset was necessary.	Inv. Inc.	003	16,999	97.69%		16,606
Regulations: 10 NYCRR Section 86-2.20(c), PRM-1 Section 202.2						

JAMES SQUARE HEALTH AND REHABILITATION CENTRE
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
				2007	2008
Sales Tax	005	16,344	99.05%	16,189	
Sales Tax	005	20,570	99.49%		20,465

10. SALES TAX DISALLOWANCES

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: TSB-A-90(60)S, Sales and Use-Rate of Tax-Residential Energy Sources-Long Term Treatment Facilities, PRM-1 Section 2122.2D

11. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE

Effective April 1, 2006 and thereafter, residential health care rates of payment determined pursuant to PHL 2808-22(a) shall not contain a payment factor for interest on current indebtedness if the residential health care facility cost report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income. In addition, allowable costs shall not include any interest charged related to rate determination or penalty imposed by governmental agencies. Interest paid to the Department of Health was disallowed. The audit disallowed late fees paid to vendors and included in reported working capital interest expense, which was consistent with methodology used by the Bureau of Long Term Care Reimbursement when establishing the rates.

Regulations: 10 NYCRR Sections 86-2.17(d) and (g), Public Health Law Section 2808-Paragraph 22(a)

WCI Exp.	005	58,632	99.49%		58,333
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Total Disallowances/(Allowances)

AUDITED PROPERTY EXPENSE

\$	18,698	\$	83,931
\$	1,266,651	\$	1,211,684