STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
221 South Warren Street, Suite 410
Syracuse, New York 13202

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

March 14, 2013

[redacted]
Marchand Manor Assisted Living Program
Box 265 Route 10
Sharon Springs, New York 13459

Re: Final Audit Report
Audit #: 09-5820
Provider #: [redacted]

Dear [redacted]:

Enclosed is the final report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Marchand Manor Assisted Living Program (the "Facility"), which reflects payments made to your Facility, for dates of service from June 1, 2004 through December 31, 2008, from the New York State Medicaid Program. In accordance with 18 NYCRR Section 517.6, this report represents OMIG's final determination on issues raised in the draft audit report. Since you did not respond to our revised draft audit report, dated July 31, 2012, the findings in the final audit report remain identical to the revised draft audit report.

BACKGROUND, PURPOSE AND SCOPE

The New York State Office of the Medicaid Inspector General (OMIG) performed a review of payments made to Durable Medical Equipment (DME) vendors on behalf of individuals residing in Assisted Living Program (ALP) homes. In accordance with Section 517.5 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (18 NYCRR), this report represents OMIG's final determination.

The New York State Department of Health (Department) is the single state agency responsible for the administration of the medical assistance (Medicaid) program. The Office of the Medicaid Inspector General (OMIG) is an independent office within the Department responsible for a variety of Medicaid program integrity functions. As part of its responsibilities, the OMIG conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at ensuring provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in New York Public Health Law, New York Social Services Law, the regulations of the Department of Health and the Department of Mental Hygiene (Titles 10, 14 and 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York) and the Medicaid Management Information System (MMIS) Provider Manuals and *Medicaid Update* publications.

The Assisted Living Program operates in adult homes and enriched housing programs and provides a combination of residential services and home care services to Medicaid and private pay residents. For each Medicaid enrollee participating in the ALP, a daily rate is paid to the ALP for the provision of nine distinct home care services. For these home care services, no additional fee-for-service billing can be made. According to Section 505.35(h) of Title 18 of NYCRR, medical supplies and equipment not requiring prior approval are one of the nine services included in the all inclusive rate paid to ALPs. The 2004-1 New York State Medicaid Program, Durable Medical Equipment Manual, Policy Guidelines page 14 states that payment will not be made for items provided by a facility or organization when the costs of these items are included in the facility's Medicaid rate.

DETAILED FINDINGS

1. **Final Audit Report Exhibit 1 - Summary of Findings**

   Our audit identified Medicaid overpayments for durable medical equipment and supplies items included in the ALP's all inclusive rate. The DME vendor must bill the ALP facility directly for these items, and not the Medicaid program. Per the original draft audit report, the amount of the overpayments totaled $65,536.30. Our revised draft audit report included the removal of Dispensing Validation System (DVS) code 6 items, resulting in total overpayments of $11,443 (Exhibit I). Repayment of $11,443 is due the New York State Department of Health.

PROVIDER RIGHTS

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:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #: 09-5820
Albany, New York 12237-0016

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.

Furthermore, 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

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 recover payment, 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.

If you choose not to settle this review through repayment, you have the right to challenge these findings by requesting an administrative hearing. Issues you may raise shall be limited to those issues relating to determinations contained in the final audit report. You may only request a hearing to challenge specific audit adjustments which you challenged in a response to the draft audit report. Your hearing request may not address issues regarding the methodology used to determine any rate of payment or fee.

At the hearing you have the right to:

a) be represented by an attorney or other representative, or to represent yourself;
b) present witnesses and written and/or oral evidence to explain why the action taken is wrong; and
c) cross examine witnesses of the Department of Health and/or the OMIG.

As allowed by state regulations, you must make your request for a hearing, in writing, within sixty (60) days of the date of this report 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 , Office of Counsel, at

The OMIG reserves the right to conduct further reviews of your participation in the Medicaid Program, take action where appropriate, and recover monies owed through the initiation of a civil lawsuit or other legal mechanisms including, but not limited to, the recovery of state tax refunds pursuant to Section 206 of the Public Health Law and Section 171-f of the State Tax Law.

If you have any questions, regarding the above, please contact at or by email at

Sincerely,

Division of Medicaid Audit, Syracuse
Office of the Medicaid Inspector General

Attachment:
Exhibit 1 – Summary of Findings

CERTIFIED MAIL #:
RETURN RECEIPT REQUESTED

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Marchand Manor Assisted Living Program
Box 265 Route 10
Sharon Springs, New York 13459

AMOUNT DUE: $11,443

PROVIDER ID #: [redacted]

AUDIT #: 09-5820

AUDIT TYPE	[X] PROVIDER
	[ ] 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, B.A.M.
GNARESP Corning Tower, Room 2739
File #: 09-5820
Albany, New York 12237

Thank you for your cooperation.