



**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 18, 2014

[REDACTED]
Adirondack Tri-County Nursing and
Rehabilitation Center
112 Ski Bowl Road
North Creek, New York 12853

Re: Medicaid PRI Audit #11-1045

NPI Number: [REDACTED]

Provider Number: [REDACTED]

Dear [REDACTED]

This is the final audit report of findings with regard to the Office of the Medicaid Inspector General's ("OMIG") Patient Review Instruments ("PRI") audit of Adirondack Tri-County Nursing and Rehabilitation Center ("Facility") for the audit period July 1, 2005 through December 31, 2008. 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 your response to the second revised draft audit report dated November 13, 2013, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A-1) and the report has been either revised accordingly and/or amended to address your comments (See Attachment A-2). Consideration of your comments resulted in an overall reduction of \$27,213 to the total Medicaid overpayment shown in the revised draft audit report.

The findings applicable to the July 1, 2006 through March 31, 2009 Medicaid rates resulted in a Medicaid overpayment of \$342,245 as detailed in Attachment A-2. 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 amount will be resolved with the Facility by the OMIG Bureau of Collections Management. The finding explanation, regulatory reference, and applicable adjustment can be found in the exhibits following Attachment A-2.

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

March 18, 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 #11-1045
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 50% withhold after 20 days until the agreement is established. 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. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against any amount owed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days at 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

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 regarding the above, please contact [REDACTED] or through email at [REDACTED]

Sincerely,

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

Attachments:

- ATTACHMENT A-1 – Analysis of Provider Response
- ATTACHMENT A-2 - Calculation of Medicaid Overpayment
- ATTACHMENT B - Change in RUG Counts for PRIs submitted on July 17, 2006 and October 12, 2006
- ATTACHMENT C - Detailed Findings by Sample Number
- ATTACHMENT D - Detailed Findings by Disallowance

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

[REDACTED]
**Adirondack Tri-County Nursing &
Rehabilitation Center
112 Ski Bowl Road
North Creek, New York 12853**

PROVIDER ID [REDACTED]

AUDIT #11-1045

AMOUNT DUE: \$342,245.00

AUDIT	<input type="checkbox"/>	PROVIDER
	<input checked="" type="checkbox"/>	RATE
TYPE	<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 #11-1045
Albany, New York 12237-0048**

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

[REDACTED]

CORRECT PROVIDER NUMBER

**ADIRONDACK TRI-COUNTY NURSING & REHABILITATION CENTER
AUDIT #011-1045
FACILITY DRAFT REPORT COMMENTS AND OMIG RESPONSE**

All OMIG findings were accepted by the Facility except for those shown below. The following details the disposition of final report findings after consideration of the Facility's draft audit report response comments.

Sample #3–Finding: Disallow PT Level - Based on information and documentation provided by the Facility, this finding was reversed and is not included in final report.

Sample #6–Finding: Disallow PT Level - Based on information and documentation provided by the Facility, this finding was reversed and is not included in final report.

Sample #8 –Finding: Disallow Eating- Based on information and documentation provided by the Facility, this finding was reversed and is not included in final report.

Sample #9 –Finding: Disallow Eating- Based on information and documentation provided by the Facility, this finding was reversed and is not included in final report.

Sample #8

Facility Comment:

Reason Denied:

#24 Positive potential for improvement for physical therapy not supported by documentation.

The facility responded with documentation scanned when on site to do the PRI review. The additional documentation was reviewed. Resident was started on a Restorative Physical Therapy program on January 16, 2006, due to gait difficulty.

The ATP for the PRI was June 17, 2006-7/14/2006.

OMIG Response

Resident has been on a Restorative Physical Therapy program since January 2006. The therapy logs show only four days for July 2006.

There were no Occupational Therapy notes, logs, or evaluations to review. Per the PRI instructions/clarifications for therapy to qualify as restorative "there is a positive potential for improved functional status within a short and predictable period of time"

Disposition

The draft report finding is unchanged and will be included in final report.

Sample #9

Facility Comment:

Reason Denied:
#18C Daily Oxygen

The facility sent in oxygen sheets for the ATP. All signatures were present.

OMIG Response

The OMIG has scanned records that show there was a missing signature on 7/10/06.

Facility Comment:

Reason Denied:
#23 Verbal Disruptions

The facility submitted additional documentation which has been reviewed The documentation has instances of verbal outbursts

OMIG Response

Documentation for review did not include an active treatment plan to address the verbal outbursts, nor on the documentation sheet to tract mood and behavior were there occurrences once every week. A level 4 verbal disruption per the PRI instructions/clarifications is an "unpredictable reoccurring verbal disruption at least once per week for no foretold reason." Also to qualify as a level 4 an "active treatment plan for behavioral problem must be in current use" and a "psychiatric assessment by a recognized professional with psychiatric training/education must exist to support the fact that the patient has a severe behavioral problem

Facility Comment:

Reason Denied:

#24 Therapy treatments are provided at least 5 days per week and 2.5 hours per week

The facility sent in therapy notes and logs which have been reviewed.

The resident has been on Restorative Therapy since 2-27-06.

OMIG Response

The ambulation distance has remained the same within this ATP period and there is documented decreased safety awareness, requirement of constant verbal cues, and her calling out during therapy related to her dementia diagnosis all prevent resident from exhibiting continued improvement in ADL/functional status through physical therapy during this ATP.

Disposition

The draft report finding is unchanged and will be included in final report.

OFFICE OF THE MEDICAID INSPECTOR GENERAL
 ADIRONDACK TRI-COUNTY NURSING AND REHABILITATION CENTER
 CALCULATION OF MEDICAID OVERPAYMENT
 AUDIT #11-1045

<u>Service</u>	<u>Effective Period</u>	<u>Part B Non-Elig.</u>		<u>Part B-Elig</u>		<u>Difference</u>	<u>Medicaid Days</u>	<u>Medicaid Impact</u>
		<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>			
NF	07/01/06 - 09/30/06	167.78	163.11	167.06	162.39	4.67	5140	\$ 24,004
NF	10/01/06 - 12/31/06	169.16	163.17	168.44	162.45	5.99	4827	28,914
NF	01/01/07 - 03/31/07	179.96	173.90	179.22	173.16	6.06	4874	29,536
NF	04/01/07 - 06/30/07	179.07	173.04	178.34	172.31	6.03	4668	28,148
NF	07/01/07 - 08/31/07	177.33	171.30	176.60	170.57	6.03	3427	20,665
NF	09/01/07 - 12/31/07	177.33	171.30	176.60	170.57	6.03	6995	42,180
NF	01/01/08 - 03/31/08	179.69	173.54	178.94	172.79	6.15	5249	32,281
NF	04/01/08 - 06/30/08	176.31	170.20	175.57	169.46	6.11	5886	35,963
NF	07/01/08 - 12/31/08	180.23	174.12	179.49	173.38	6.11	11165	68,218
NF	01/01/09 - 03/31/09	174.17	167.89	173.41	167.13	6.28	5149	32,336
TOTAL MEDICAID OVERPAYMENT								\$ 342,245

NOTE: Impact of the Dementia Per Diem Calculation handled as per diem disallowance on Schedule VII (Schedule B)

OFFICE OF THE MEDICAID INSPECTOR GENERAL
ADIRONDACK TRI-COUNTY NURSING AND REHABILITATION CENTER
CHANGE IN RUG CATEGORIES
JULY 17, 2006

RUG CATEGORY	CHANGE IN RUG CATEGORY			
	REPORTED	INCREASE	DECREASE	
BA	1		1	0
BB	0			0
BC	0			0
CA	6		1	5
CB	12		3	9
CC	5		3	2
CD	1			1
PA	3	5		8
PB	1			1
PC	34	5		39
PD	4			4
PE	0			0
RA	1			1
RB	9		2	7
SA	3			3
SB	1			1
TOTAL	81	10	10	81

Dementia Patient Per Diem Calculation

CA	0			0
BA	1		1	0
PA	1		1	0
PB	0			0
TOTAL	2	0	2	0

OFFICE OF THE MEDICAID INSPECTOR GENERAL
ADIRONDACK TRI-COUNTY NURSING AND REHABILITATION CENTER
CHANGE IN RUG CATEGORIES
OCTOBER 12, 2006

RUG CATEGORY	CHANGE IN RUG CATEGORY			
	REPORTED INCREASE	DECREASE	ADJUSTED	
BA	1		1	0
BB	0			0
BC	0			0
CA	6		1	5
CB	14		5	9
CC	4		2	2
CD	1			1
PA	3	5		8
PB	1			1
PC	31	7		38
PD	3	1		4
PE	0			0
RA	1			1
RB	11		4	7
SA	3			3
SB	1			1
TOTAL	80	13	13	80

Dementia Patient Per Diem Calculation

CA	0			0
BA	1		1	0
PA	1		1	0
PB	0			0
TOTAL	2	0	2	0

**ADIRONDACK TRI-COUNTY NURSING AND REHABILITATION CENTER
DETAILED FINDINGS**

PRI FINDINGS**Sample Selection****Oxygen - (Daily)**

PRI instructions/clarifications state *"For medical treatments having a daily frequency requirement, treatments must be provided every day of the four week period."*

10 NYCRR Section 86-2.30 (II) 18C

In 6 instances, documentation did not support the daily frequency requirement for oxygen.

9, 20, 32, 76, 77, 87

Wound Care

The PRI instructions/clarifications define a wound as a *"subcutaneous lesion(s) resulting from surgery, trauma, or open cancerous ulcers."* Additionally, *"decubiti, stasis ulcers, skin tears and feeding tubes are excluded"* from wound care.

10 NYCRR Section 86-2.30 (II) 18G

In 1 instance, documentation did not support wound care due to surgery, trauma, or cancerous lesion during the past 28 days.

7

Eating

PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 19

Level 3 eating continual help *"means that the patient requires a staff person's continual presence and help for reasons such as: patient tends to choke, has a swallowing problem, is learning to feed self, or is quite confused and forgets to eat."*

In 9 instances, documentation did not support continual help with eating.

5, 16, 21, 37, 44, 61, 63, 64, 88

Transfer

The PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 21

Level 3 transfer continuous assistance; *"requires one person to provide constant guidance, steadiness and/or physical assistance. Patient may participate in transfer."*

In 4 instances, documentation did not support constant guidance or physical assistance in transfer. 24, 69, 84, 85

Level 4 transfer *"requires two people to provide constant supervision and/or physically lift. May need lifting equipment. Documentation must support a logical medical reason why the patient required two people to transfer."*

In 3 instances, documentation did not support the resident; required two people or the use of lifting equipment to transfer. 16, 42, 55

Toileting

The PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (III) 22

Level 3 toileting resident is *"continent of bowel and bladder. Requires constant supervision and/or physical assistance with major/all parts of the task, including appliances (i.e. colostomy, ileostomy, urinary catheter)."*

In 3 instances, documentation did not support constant supervision and/or physical assistance with toileting. 21, 69, 84

Level 4 toileting resident is *"incontinent 60% or more of the time; does not use a bathroom. The patient may be bed bound or mentally confused to the extent that a scheduled toileting program is not beneficial."*

In 2 instances, documentation did not support incontinence 60% of the time. 24, 38

Verbal Disruption

PRI instructions/clarifications define verbal disruption as "yelling, baiting, threatening, etc."

10 NYCRR Section 86-2.30 (IV) 23

Level 4 verbal disruption is an "unpredictable reoccurring verbal disruption at least once per week for no foretold reason." Also, to qualify a patient as level 4 an "active treatment plan for the behavioral problem must be in current use" and a "psychiatric assessment by a recognized professional with psychiatric training/education must exist to support the fact that the patient has a severe behavioral problem."

In 1 instance, documentation did not support verbal disruption at least once per week. 9

Disruptive, Infantile or Socially Inappropriate Behavior

The PRI instructions/clarifications define this behavior as "childish, repetitive or antisocial physical behavior which creates disruption with others."

10 NYCRR Section 86-2.30 (IV) 25

Additionally,

Level 4 behavior is "disruptive behavior at least once per week during the last four weeks."

Also, to qualify a patient as level 4 disruptive behavior an "active treatment plan for the behavioral problem must be in current use" and a "psychiatric assessment by a recognized professional with psychiatric training/education must exist to support the fact that the patient has a severe behavioral problem."

In 1 instance, documentation did not support disruptive, infantile or socially inappropriate behavior at least once per week. 78

Hallucinations

The PRI instructions/clarifications define hallucinations as "experienced at least once per week during the last four weeks, visual, auditory, or

tactile perceptions that have no basis in external reality."

Additionally, to qualify a patient as Level 1 hallucinations an *"active treatment plan for the behavioral problem must be in current use"* and a *"psychiatric assessment by a recognized professional with psychiatric training/education must exist to support the fact that the patient has a severe behavioral problem."*

10 NYCRR Section 86-2.30 (IV) 26

In 1 instance, documentation did not support visual, auditory, or tactile hallucinations once per week for the last four weeks. 6

Physical Therapy

PRI instructions/clarifications state:

10 NYCRR Section 86-2.30 (V) 27A

PRI instructions/clarifications state *"there must be an order for restorative therapy."*

PRI instructions/clarifications also state *"in order for therapy to qualify as restorative, treatment is provided at least five days per week and 2.5 hours per week."*

In 1 instance, documentation did not support treatment five days/2.5 hours per week. 9

PRI instructions/clarifications state *"in order for therapy to qualify as restorative the resident must continue to show improvement during treatment."*

In 2 instances, documentation did not support continued improvement in ADL/functional status through the past 28 days. 8, 9

Occupational Therapy

PRI instructions/clarifications state:

Title 10 NYCRR Section 86-2.30 (V) 27A

PRI instructions/clarifications state there must be an order for restorative therapy.

PRI instructions/clarifications further state *"in order for therapy to qualify as restorative the resident must continue to show improvement during treatment."*

In 1 instance documentation did not support continued improvement in ADL/functional status through the past 28 days. 8

Number of Physician Visits

The PRI instructions/clarifications state that allowable physician visits are those in which *"the patient has a medical condition that (1) is unstable and changing or (2) is stable, but there is high risk of instability."*

10 NYCRR Section 86-2.30 (V) 28

In 2 instances, documentation did not support the number of physician visits claimed were for unstable or potentially unstable conditions. 21, 27

Primary Medical Problem

The PRI instructions/clarifications state: *"The primary medical problem should be selected based on the condition that has created the most need for nursing time during the past four weeks."*

10 NYCRR Section 86-2.30 (i) (VI) 30

In 2 instances, documentation did not support that the primary medical problem (ICD-9 code) was based on the condition that created the most need for nursing time. 19, 29

Dementia Add-on

PRI instructions/clarifications state: *"Facilities to whom the additional amount is paid shall demonstrate and document positive outcomes from the implementation or continuation of programs to improve the care of eligible dementia patients."*

10 NYCRR Section 86-2.10 (o)

In 2 instances, there was no documentation found in the record of activities that meet these criteria. 78, 79

RUGS-II Classifications Overturned

In 17 instances, the RUG-II classifications were overturned.

8, 9, 16, 19, 20, 21, 24, 27, 29, 32, 69,
76, 77, 78, 84, 85, 87

10 NYCRR Section 86-2.11