



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
445 Hamilton Avenue, Suite 506
White Plains, New York 10601

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

March 14, 2014

[REDACTED]
Bronx Park Rehabilitation & Nursing Center
3845 Carpenter Avenue
Bronx, New York 10467

Re: Medicaid Rate Audit #11-1452
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 Bronx Park Rehabilitation & Nursing Center's (the "Facility") Medicaid rates for the rate period January 1, 2006 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this audit report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated October 22, 2013, 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. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$109,526. 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 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 2739
File #11-1452
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 an 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]

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 [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.

Should you have any questions, please contact [REDACTED] or through email at [REDACTED]. Please refer to audit number 11-1452 in all correspondence.

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 – Property Expense Disallowances/(Allowances)

[REDACTED]

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED
Ver-17.0

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

NAME AND ADDRESS OF AUDITEE

Bronx Park Rehabilitation &
Nursing Center
3845 Carpenter Avenue
Bronx, New York 10467

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

AUDIT #11-1452

AMOUNT DUE: \$109,526

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 #11-1452
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

BRONX PARK REHABILITATION & NURSING CENTER - AUDIT #11-1452
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 report response comments.

EXHIBIT III COMMENTS

Adjustment #3 – Automobile Expense Disallowances

Facility Comment

In the past Bronx Park did not keep contemporaneous logs of use of vehicles used for activity related to patient care, and Medicaid did not disallow expenses not supported by such documentation. However, there is no question that vehicles included as disallowances in the subject draft audit report were used for facility business relating to patient care. In particular, 2005 (later 2008 under new lease) Lexus 460 and 2004 Mercedes C320 (later 2007 E350 under new lease) sedans were routinely used for this activity. The reason for use of the vehicles and the usage is summarized in the following table. The same usage would apply in each of the three audit years (2006, 2007 and 2008). The usage identified is conservative, i.e., Bronx Park would have used the vehicles at least as frequently as is stated. In most cases, it is likely the vehicles would have been used more frequently.

Destination	Usage	Usage Per Year	Mileage
Bank - for money transfers and deposits	2 - 3x/week	130	6 mi. for each round trip
Visits to Hospital Discharge Planners - for resident admissions to Bronx Park	4x/week	208	4-40 mi for each round trip
Home Depot - for maintenance supplies, i.e., light bulbs, nails screws, paint, tiles, ceiling tiles	1x/week	52	10 mi. for each round trip
Staples - for office supplies and equipment	1x/week	52	10 mi. for each round trip
Costco - for supplies and food for special resident parties and events	2x/week	24	10 mi. for each round trip
Electronics Store - for resident radios, TVs and other electronic supplies	2x/week	24	20 mi. for each round trip
Seminars and Conventions	2x/month	12	20-300 mi. for each round trip
Miscellaneous - meetings outside of the facility, i.e., with lawyers, accountants, hospital administration; visiting other facilities to evaluate for proper placement for residents; retrieving residents' belongings from their prior residences	1x/week	52	4-40 mi for each round trip

With respect to other automobile expense identified for disallowance, as satisfactory documentation cannot be produced at this time Bronx Park will accept the auditors' determination. To the extent relevant, Bronx Park understands that at some point in the future OMIG will roll forward these disallowances and will eliminate the expense in subsequent years. Similarly, the Facility will not contest the other disallowances noted in the report.

OMIG Response

The Facility acknowledged that no records were maintained at the time the automobile expenses were incurred and also had not established the amount of personal and business usage for each automobile. The Facility's current estimate for business use is not sufficiently detailed to determine the costs related to patient care. In addition, Lexus and Mercedes are considered luxury vehicles and related costs are not reimbursable. It is noted the audit did allow expenses for one suburban van and one truck out of fifteen automobiles reported.

Disposition: The draft report disallowances remain the same.

BRONX PARK REHABILITATION & NURSING CENTER - AUDIT #11-1452
RATE PERIODS JANUARY 1, 2006 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>
01/01/06 - 03/31/06	\$169.91	\$169.65	\$0.26	19,354	\$ 5,032
04/01/06 - 06/30/06	170.67	170.34	0.33	18,140	5,986
07/01/06 - 09/30/06	170.23	169.90	0.33	19,516	6,440
10/01/06 - 12/31/06	186.10	185.77	0.33	18,128	5,982
01/01/07 - 03/31/07	192.09	191.53	0.56	17,534	9,819
04/01/07 - 06/30/07	190.99	190.43	0.56	17,343	9,712
07/01/07 - 08/31/07	190.31	189.75	0.56	11,705	6,555
09/01/07 - 12/31/07	190.31	189.75	0.56	23,429	13,120
01/01/08 - 03/31/08	194.56	193.89	0.67	17,088	11,449
04/01/08 - 06/30/08	191.32	190.65	0.67	17,699	11,858
07/01/08 - 12/31/08	194.57	193.90	0.67	35,183	23,573
TOTAL MEDICAID OVERPAYMENT					<u>\$ 109,526</u>

* Any differences between these rates and the rates listed in Exhibit II of this audit 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.

BRONX PARK REHABILITATION & NURSING CENTER - AUDIT #11-1452
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 88 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 audit 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>
01/01/06 - 03/31/06	\$ 187.82
04/01/06 - 12/31/06	187.39
01/01/07 - 03/31/07	192.39
04/01/07 - 06/30/07	191.29
07/01/07 - 08/31/07	190.61
09/01/07 - 12/31/07	190.61
01/01/08 - 03/31/08	194.87
04/01/08 - 06/30/08	191.62
07/01/08 - 12/31/08	194.86

* 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.

BRONX PARK REHABILITATION & NURSING CENTER - AUDIT #11-1452
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	COST CTR.	RATE PERIODS	
		01/01/2006- 04/01/2006-	03/31/2006 12/31/2006
DESCRIPTION		2007	2008
4. WORKING CAPITAL INTEREST DISALLOWANCE			
Effective April 1, 2006 and thereafter, rates shall not contain a payment factor for working capital interest if the RHC-4 report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income. The Facility had a positive net income and a withdrawal of equity in cost year 2004. Consequently, working capital interest expense for rate period April 1, 2006 to December 31, 2006 was disallowed.	005		6,271
Regulations: 10 NYCRR Sections 86-2.17 (a) & (d), Public Health Law, Section 2808, Paragraph 22(a)			
5. INVESTMENT INCOME OFFSET REVERSAL			
Reported investment income was appropriately offset against working capital interest expense in the 2006 rate. However, due to the disallowance of working capital interest expense in adjustment #4, it was necessary to reverse the offset of investment income.	005	(897)	
Regulation: 10 NYCRR Section 86-2.20(c)			
6. REAL ESTATE TAX DISALLOWANCE			
The Facility reported professional fees associated with reducing its property tax assessment as real estate tax expense. 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 did not adequately substantiate the expense. Furthermore, charges of this nature should properly be reported as a fee and operating expense in accordance with the New York State Residential Health Care Facility Accounting and Reporting Manual. Consequently, the expense was disallowed from the capital component of the rate.	006		10,246
Regulations: 10 NYCRR Sections 86-2.10 (d) & (g), 86-17(a), & 455.4, PRIM-1 Sections 2300 & 2304			
Total Disallowances/(Allowances)		\$ 20,664	\$ 54,911
TOTAL AUDITED PROPERTY EXPENSE		\$ 237,562	\$ 578,481