



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

May 31, 2013

[REDACTED]
Park Nursing Home
128 Beach 115th Street
Rockaway Park, New York 11694

Re: Medicaid Rate Audit #11-3750
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 Park Nursing Home'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 report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated April 11, 2013, you identified a specific audit finding with which you disagreed. Your comments have been considered (see Attachment A); however, 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 \$213,905. 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, 2008 that utilized the June 1, 1989 through December 31, 1989 base period for operating expense. Any overpayment resulting from operating expense disallowances in the June 1, 1989 through December 31, 1989 base period report for rates subsequent to December 31, 2008 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:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #11-3750
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.

Should you have any questions, please contact [REDACTED] at [REDACTED] or
through email at [REDACTED]. Please refer to audit number 11-3750 in all
correspondence.

Sincerely,

[REDACTED]
Bureau of Rate Audit
Division of Medicaid Audit
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 - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)
- EXHIBIT V - Return on and Return of Real Property Equity Disallowances/(Allowances)
- EXHIBIT VI - Return on Average Equity Disallowances/(Allowances)

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Park Nursing Home
128 Beach 115th Street
Rockaway Park, New York 11694

NPI [REDACTED]
PROVIDER [REDACTED]

AUDIT #11-3750

AMOUNT DUE: \$213,905

AUDIT TYPE	<input type="checkbox"/> PROVIDER
	<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 #11-3750
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

**PARK NURSING HOME - AUDIT #11-3750
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.

EXHIBIT IV COMMENTS

Adjustment #5 – Working Capital Interest Expense Disallowance

Facility Comment

The facility has submitted an appeal to amend the cost report to change schedule 13 for rate years 2007 and 2008, the drawings are now classified as an administrative expense. Schedule 8A has also been adjusted.

OMIG Response

The Facility filed appeal #11865 in which they re-filed the 2005 and 2006 RHCF-4 cost reports to reclassify equity withdrawals (Schedule 13) to non-allowable expense (Schedule 8A). Making changes to the RHCF-IV cost report deals with methodology which the Bureau of Long Term Care Reimbursement (BLTCR) will have to address through the appeal process. Consequently, this issue was not considered.

Disposition: The Facility's response cannot be addressed by the OMIG.

PARK NURSING HOME - AUDIT #11-3750
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	\$165.52	\$164.77	\$0.75	15,744	\$ 11,808
04/01/06 - 06/30/06	165.19	164.18	1.01	15,825	15,983
07/01/06 - 09/30/06	162.58	161.57	1.01	16,082	16,243
10/01/06 - 12/31/06	161.71	160.71	1.00	16,007	16,007
01/01/07 - 03/31/07	171.93	170.84	1.09	14,521	15,828
04/01/07 - 06/30/07	170.95	169.85	1.10	14,912	16,403
07/01/07 - 12/31/07	167.25	166.16	1.09	33,046	36,020
01/01/08 - 03/31/08	170.91	169.61	1.30	16,141	20,983
04/01/08 - 06/30/08	167.97	166.68	1.29	16,483	21,263
07/01/08 - 12/31/08	168.09	166.79	1.30	33,359	<u>43,367</u>
TOTAL MEDICAID OVERPAYMENT					<u>\$ 213,905</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.

PARK NURSING HOME - AUDIT #11-3750
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 93 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	\$ 166.17
04/01/06 - 06/30/06	165.83
07/01/06 - 09/30/06	163.22
10/01/06 - 12/31/06	162.36
01/01/07 - 03/31/07	172.59
04/01/07 - 06/30/07	171.60
07/01/07 - 12/31/07	167.93
01/01/08 - 03/31/08	171.60
04/01/08 - 06/30/08	168.66
07/01/08 - 12/31/08	168.76

* 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.

**PARK NURSING HOME - AUDIT #11-3750
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)**

COST CTR.	OPERATING EXPENSE COMPONENT			
	DESCRIPTION	DIRECT	NON-COMP. 2006	NON-COMP. 2007-2008
		\$ 2,451,271	\$ 1,647,337	\$ 115,989

Operating Expense Allowed per HE-12B
Less Disallowances/(Allowances):

ELIMINATION OF DUPLICATED SALES TAX EXPENSE

For rate years January 1, 2006 through December 31, 2008, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. Since sales tax is included in the Facility's June 1, 1989 through December 31, 1989 base period and since this period is also the basis for the operating portion of the January 1, 2006 through December 31, 2008 rates, inclusion of sales tax in the capital portion of the rate resulted in duplicate reimbursement. In order to eliminate the duplication, disallowances to the operating component of the January 1, 2006 through December 31, 2008 rates were necessary.

Regulations: 10 NYCRR Sections 86-2.17(a) and (d)

014	Activities	377		
021	Social Services	18		
039	Physical Therapy	105		
040	Occup. Therapy	717		
043	Central Service	5,550		
004	Fiscal		566	
006	Plant Operations		4,505	
010	Housekeeping		4,439	
019	Medical Records		41	
106	Utilities			6,091

Total Disallowances/(Allowances)

\$	6,767	\$	9,551	\$	6,091	\$	6,091
\$	2,444,504	\$	1,637,786	\$	180,032	\$	109,898

TOTAL AUDITED OPERATING EXPENSE BY COMPONENT

PARK NURSING HOME - AUDIT #11-3750
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

COST	RATE PERIODS			
	11/1/2006- 3/31/2006	4/1/2006- 12/31/2006	1/1/2007- 12/31/2007	1/1/2008- 12/31/2008
	\$ 282,783	\$ 282,783	\$ 451,678	\$ 485,979

Property Expense Allowed per HE-12B
Less Disallowances/(Allowances):

1. RETURN OF AND RETURN ON EQUITY DISALLOWANCES

A proprietary facility is entitled to return of equity and return on equity for capital invested for the necessary and proper operation for patient care activities. The audited accumulated real property reimbursement varied from the promulgated reimbursement. Consequently, disallowances were necessary. (Refer to Exhibit V)

Regulation: 10 NYCRR Section 86-2.21

2. RETURN ON AVERAGE EQUITY ADJUSTMENTS

Based on the average equity regulation below, a proprietary residential health care facility is entitled to a reasonable return on average equity for equity associated with necessary and proper patient care activities. Adjustments were necessary to the net investment along with the exclusion of Goodwill. Based on the audited average equity calculation, adjustments were necessary. (Refer to Exhibit VI)

Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.28

3. MOVEABLE EQUIPMENT RENTAL DISALLOWANCES

Costs not related to patient care are costs that are not appropriate or necessary for patient care in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. The Facility did not produce any usage logs to document patient related use of the vehicles. Therefore, disallowances were necessary.

Regulations: 10 NYCRR Sections 86-2.17(a) and (d), PRM-1 Sections 2105.9, 2300 & 2304

4. AUTO INSURANCE DISALLOWANCES

Costs not related to patient care are costs that are not appropriate or necessary for patient care in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. Auto insurance costs pertaining to automobiles in which usage logs were not available were disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a) and (d), PRM-1 Sections 2105.9, 2300 & 2304

DESCRIPTION	RATE PERIODS			
	11/1/2006- 3/31/2006	4/1/2006- 12/31/2006	1/1/2007- 12/31/2007	1/1/2008- 12/31/2008
Ret. of Equity 001	19,670	19,670	17,259	17,260
Ret. on Equity 001			7,189	6,058
			(5,477)	
Rent A 006	8,892	8,892	7,764	108
Rent C 006				
Auto Ins. 006	5,535	5,535	7,063	6,628

PARK NURSING HOME - AUDIT #11-3750
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	COST CTR.	DESCRIPTION	RATE PERIODS			
			1/1/2006- 3/31/2006	4/1/2006- 12/31/2006	1/1/2007- 12/31/2007	1/1/2008- 12/31/2008
5. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCES						
a) 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 withdrawals of equity. Consequently, working capital interest expense was disallowed. Regulations: 10 NYCRR Section 86-2.17(d), Public Health Law, Section 2808, Paragraph 22(a)	005	WCI Exp.		17,358		
	005	WCI Exp.			23,762	
	005	WCI Exp.				30,641
b) Allowable costs shall not include any interest charged related to rate determination imposed by governmental agencies. Consequently, interest expense imposed by the New York State Department of Health was disallowed. Regulation: 10 NYCRR Section 86-2.17(g)	005	WCI Exp.				10,152
			\$ 34,097	\$ 51,455	\$ 57,560	\$ 70,847
Total Disallowances/(Allowances)			\$ 248,686	\$ 231,328	\$ 394,118	\$ 415,132

TOTAL AUDITED PROPERTY EXPENSE

PARK NURSING HOME - AUDIT #11-3750**RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008****RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)**

	RATE PERIODS		
	<u>2006</u>	<u>2007</u>	<u>2008</u>
<u>Return of Equity Calculation</u>			
Real Property Historical Cost per HE-12B	\$ 2,475,518	\$ 2,545,568	\$ 2,555,596
Audit Disallowances/(Allowances)	-	-	-
Audited Historical Cost	\$ 2,475,518	\$ 2,545,568	\$ 2,555,596
Less: Accumulated Reimbursement	<u>2,306,593</u>	<u>2,323,486</u>	<u>2,348,162</u>
Audited Net Equity	\$ 168,925	\$ 222,082	\$ 207,434
Remaining Useful Life	<u>10</u>	<u>9</u>	<u>8</u>
Audited Return of Equity	\$ 16,893	\$ 24,676	\$ 25,929
Promulgated Return of Equity	<u>16,893</u>	<u>41,935</u>	<u>43,189</u>
Disallowance/(Allowance)	<u>\$ -</u>	<u>\$ 17,259</u>	<u>\$ 17,260</u>
<u>Return on Equity Calculation</u>			
Audited Net Equity	\$ 168,925	\$ 222,082	\$ 207,434
Less: ½ Current Return of Equity	<u>8,447</u>	<u>12,338</u>	<u>12,965</u>
Audited Net Investment	\$ 160,478	\$ 209,744	\$ 194,469
Rate of Return	<u>4.45%</u>	<u>4.90%</u>	<u>4.68%</u>
Audited Return on Equity	\$ 7,141	\$ 10,277	\$ 9,101
Promulgated Return on Equity	<u>7,141</u>	<u>17,466</u>	<u>15,159</u>
Disallowance/(Allowance)	<u>\$ -</u>	<u>\$ 7,189</u>	<u>\$ 6,058</u>

PARK NURSING HOME - AUDIT #11-3750
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
RETURN ON AVERAGE EQUITY DISALLOWANCES/(ALLOWANCES)

	<u>RATE PERIODS</u>	
	<u>2006</u>	<u>2007</u>
Average Equity per HE-12B	\$ 1,391,855	\$ 1,186,939
Audit Disallowances:		
• Due From Parent/Affiliate	405,000	415,069
• Goodwill	<u>392,000</u>	<u>454,098</u>
Audited Average Equity	\$ 594,855	\$ 317,772
Less: Audited Net Investment	<u>160,479</u>	<u>209,744</u>
Audited Remaining Equity	\$ 434,376	\$ 108,028
Rate of Return	<u>3.76%</u>	<u>5.07%</u>
Return on Average Equity Per Audit	\$ 16,332	\$ 5,477
Return on Average Equity Per HE-12B	<u>36,002</u>	<u>-</u>
Disallowance/(Allowance)	<u>\$ 19,670</u>	<u>\$ (5,477)</u>