STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
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Buffalo, New York 14202
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DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

November 19, 2010

[redacted]
Elderwood Affiliates, Inc.
7 Limestone Drive
Williamsville, New York 14221

Re: Elderwood Health Care at Heathwood
(formerly Heathwood Health Care Center, Inc.)
Medicaid Rate Audit #06-1388
NPI Number: [redacted]
Provider Num[redacted]

Dear [redacted]

Enclosed is the final report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Elderwood Health Care at Heathwood's (formerly Heathwood Health Care Center, Inc.) (the "Facility") Medicaid rates for the rate period January 1, 2001 through December 31, 2004. The audit did not include the January 1, 2001 through December 31, 2004 ventilator rates. These rates will be subject to audit at a later date, subsequent to the Bureau of Long Term Care Reimbursement's review. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft report.

Since you did not respond to our draft report dated June 29, 2010, the findings in the final report remain identical to the draft report. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $80,926. 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 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 1237
File #06-1388
Albany, New York 12237-0048

OPTION #2: Enter into a repayment agreement with the OMIG. If your repayment terms exceed 90 days from the date of the final 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 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

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 of 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. If you have any questions regarding the above, please contact at

Sincerely,

Director, Audit Resources Management
Division of Medicaid Audit
Audit Management and Development
Office of the Medicaid Inspector General

cc:

Attachments:
EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
EXHIBIT II - Summary of Medicaid Rates Audited
EXHIBIT III - Property Expense Disallowances/(Allowances)
EXHIBIT IV - Overstated Return on Real Property Equity

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

Elderwood Health Care at
Heathwood
815 Hopkins Road
Williamsville, New York 14221

AMOUNT DUE: $80,926

NPI #: [redacted]
PROV

AUDIT #06-1388

AUDIT TYPE	[ ] PROVIDER [X] 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
GNARESP Corning Tower, Room 1237
File #06-1388
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

EXHIBIT I

ELDERWOOD HEALTH CARE AT HEATHWOOD (FORMERLY HEATHWOOD HEALTH CARE CENTER, INC.)

RATE PERIODS JANUARY 1, 2001 THROUGH DECEMBER 31, 2004

SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED RATES* Medicare Part B Non-Elig. / Eligible	FINAL RATES Medicare Part B Non-Elig. / Eligible	RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
01/01/01 - 02/28/01	$114.88 / 114.22	$114.39 / 113.73	$ 0.49	5,957	$ 2,919
03/01/01 - 05/31/01	115.50 / 114.84	115.01 / 114.35	0.49	8,802	4,313
06/01/01 - 08/31/01	117.10 / 116.44	116.61 / 115.95	0.49	8,630	4,229
09/01/01 - 11/30/01	117.15 / 116.49	116.66 / 116.00	0.49	8,791	4,308
12/01/01 - 12/31/01	115.43 / 114.77	114.94 / 114.28	0.49	2,968	1,454
01/01/02 - 02/28/02	118.84 / 118.16	117.85 / 117.17	0.99	5,447	5,393
03/01/02 - 03/31/02	120.25 / 119.57	119.26 / 118.58	0.99	2,700	2,673
04/01/02 - 05/31/02	126.26 / 125.58	125.27 / 124.59	0.99	5,337	5,284
06/01/02 - 08/31/02	126.77 / 126.09	125.78 / 125.10	0.99	8,363	8,279
09/01/02 - 11/30/02	127.72 / 127.04	126.73 / 126.05	0.99	8,349	8,266
12/01/02 - 12/31/02	125.78 / 125.10	124.79 / 124.11	0.99	2,905	2,876
01/01/03 - 02/28/03	125.73 / 125.03	125.05 / 124.35	0.68	5,267	3,582
03/01/03 - 05/31/03	126.48 / 125.78	125.80 / 125.10	0.68	8,222	5,591
06/01/03 - 08/31/03	127.52 / 126.82	126.84 / 126.14	0.68	8,332	5,666
09/01/03 - 11/30/03	127.90 / 127.20	127.22 / 126.52	0.68	8,199	5,575
12/01/03 - 12/31/03	130.54 / 129.84	129.86 / 129.16	0.68	2,713	1,845
01/01/04 - 02/29/04	135.24 / 134.53	134.99 / 134.28	0.25	5,458	1,365
03/01/04 - 03/31/04	136.58 / 135.87	136.33 / 135.62	0.25	2,883	721
04/01/04 - 05/31/04	146.38 / 145.67	146.13 / 145.42	0.25	5,832	1,458
06/01/04 - 08/31/04	143.10 / 142.39	142.85 / 142.14	0.25	8,826	2,207
09/01/04 - 12/31/04	143.68 / 142.97	143.43 / 142.72	0.25	11,686	2,922
Total Medicaid Overpayment					$ 80,926

* Any differences between these rates and the rates listed in Exhibit II of this report represent rate changes made subsequent to our audit. These changes remain open to future audit by the OMIG.

EXHIBIT II

ELDERWOOD HEALTH CARE AT HEATHWOOD (FORMERLY HEATHWOOD HEALTH CARE CENTER, INC.)

RATE PERIODS JANUARY 1, 2001 THROUGH DECEMBER 31, 2004

SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization ranged from approximately 62 to 70 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.

	ISSUED RATES	
	Medicare Part B	
RATE PERIOD	Non-Elig.	Eligible
01/01/01 - 02/28/01	$ 115.45	$ 114.79
03/01/01 - 05/31/01	116.09	115.43
06/01/01 - 08/31/01	117.67	117.01
09/01/01 - 11/30/01	117.72	117.06
12/01/01 - 12/31/01	116.02	115.36
01/01/02 - 02/28/02	119.44	118.76
03/01/02 - 03/31/02	120.86	120.18
04/01/02 - 05/31/02	126.87	126.19
06/01/02 - 08/31/02	127.37	126.69
09/01/02 - 11/30/02	128.32	127.64
12/01/02 - 12/31/02	126.38	125.70
01/01/03 - 02/28/03	126.34	125.64
03/01/03 - 05/31/03	127.08	126.38
06/01/03 - 08/31/03	128.13	127.43
09/01/03 - 11/30/03	128.52	127.82
12/01/03 - 12/31/03	131.16	130.46
01/01/04 - 02/29/04	135.86	135.15
03/01/04 - 03/31/04	137.20	136.49
04/01/04 - 05/31/04	146.82	146.11
06/01/04 - 08/31/04	143.56	142.85
09/01/04 - 12/31/04	144.12	143.41

ELDERWOOD HEALTH CARE AT HEATHWOOD (FORMERLY HEATHWOOD HEALTH CARE CENTER, INC.)

RATE PERIODS JANUARY 1, 2001 THROUGH DECEMBER 31, 2004

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS 2001	2002	2003	2004
Expense Allowed on HE-12B			$ 796,741	$ 834,586	$ 850,619	$ 887,564
Less Disallowances/(Allowances):						
1. OVERSTATED RETURN ON REAL PROPERTY EQUITY (EXHIBIT IV)						
The audit of real property historical cost disclosed the following adjustments that resulted in disallowances to the return on real property equity.	Ret. on Equity	003	34,918			
a.) Historical cost was reduced for prior audit disallowances.	Ret. on Equity	003		37,751		
b.) Telephone equipment purchased in 2001 was disallowed for rate years 2003 and 2004.	Ret. on Equity	003			34,868	
c.) The allowable mortgage principal was adjusted to include annual real property purchases up to the maximum amount allowable for real property. This impacted the over-mortgaging percentage for all rate years.	Ret. on Equity	003				36,797
Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.21						
2. INVESTMENT INCOME OFFSET						
Not all investment income applicable to the Facility and the related companies was offset in the promulgated rates. The interest income not offset in the promulgated rates was offset on audit.	Inv. Inc.	003	18,733			
	Inv. Inc.	003		33,455		
	Inv. Inc.	003			37,973	
Regulation: 10 NYCRR Section 86-2.20(c)(1)	Inv. Inc.	003				12,515
3. RELATED COMPANY EXPENSE DISALLOWANCE						
The Facility's base period for operating expense (January 1, 1983 through December 31,1983) included reimbursement for the cost of pharmacy drugs and supplies through an unrelated provider. The property costs for the 2001 and 2002 rate years also include the allocated costs of Woodmark Pharmacy, a related company. Since the Facility was reimbursed for its full pharmacy costs in the operating base period, any additional expense allocated from Woodmark Pharmacy and included in the current property rates would result in duplicate reimbursement. Therefore, the property expenses allocated from Woodmark Pharmacy were disallowed.	Property Ins.	005	19			
	ME Depn.	002	596			
	ME Rent	006	7			
	Amort. Org. Exp.	005	7			
	Auto Insurance	005	38			
	Sales Tax	005	160			
	Property Ins.	005		15		
	ME Depn.	002		770		
	ME Rent	006		807		
	Auto Insurance	005		46		
Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.26	Sales Tax	005		126		

ELDERWOOD HEALTH CARE AT HEATHWOOD (FORMERLY HEATHWOOD HEALTH CARE CENTER, INC.)

RATE PERIODS JANUARY 1, 2001 THROUGH DECEMBER 31, 2004

PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	RATE PERIODS 2001	2002	2003	2004
4. DISALLOWANCE OF TELEPHONE DEPRECIATION EXPENSE						
The Bureau of Long Term Care Reimbursement has determined the nature of telephone expense to be an operating expense. 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 depreciation expense in the property component amounts to duplicate reimbursement. Consequently, disallowances were necessary. **Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.22**	ME Depn.	002	635			
	ME Depn.	002		591		
	ME Depn.	002			423	
	ME Depn.	002				316
5. DISALLOWANCE OF RENTAL EXPENSE						
The provider reported rental expense for the vent unit and received reimbursement in the 2002 through 2004 rates. This was disallowed as all costs for the vent unit are reimbursed through a separate rate. **Regulation: 10 NYCRR Section 86-2.17(d)**	ME Rent	011		18,755		
	ME Rent	011			976	
	ME Rent	011				
6. MORTGAGE INTEREST AND AMORTIZATION ALLOWANCE						
Mortgage interest and principal amortization for rate years 2001 through 2004 were adjusted for the change in over-mortgaging percentage resulting from the inclusion of annual asset additions. **Regulations: 10 NYCRR Sections 86-2.17(a) and 86-2.21**	Mort. Int.	003	(20,155)			
	Mort. Amort.	001	(6,972)			
	Mort. Int.	003		(25,877)		
	Mort. Amort.	001		(10,032)		
	Mort. Int.	003			(25,004)	
	Mort. Amort.	001			(10,905)	
	Mort. Int.	003				(24,054)
	Mort. Amort.	001				(11,854)
Total Disallowance/(Allowance)			$ 27,986	$ 56,407	$ 38,331	$ 13,720
AUDITED PROPERTY EXPENSE			$ 768,755	$ 778,179	$ 812,288	$ 873,844

EXHIBIT IV

ELDERWOOD HEALTH CARE AT HEATHWOOD (FORMERLY HEATHWOOD HEALTH CARE CENTER, INC.)

RATE PERIODS JANUARY 1, 2001 THROUGH DECEMBER 31, 2004

OVERSTATED RETURN ON REAL PROPERTY EQUITY

	RATE PERIODS			
	2001	2002	2003	2004
Historical Cost Per Promulgated Rate	$ 7,474,424	$ 7,793,690	$ 7,860,037	$ 7,998,179
Less:				
Prior Audit Disallowances	348,131	348,131	348,131	348,131
Telephone System Disallowance			20,521	20,521
Historical Cost Per Audit	$ 7,126,293	$ 7,445,559	$ 7,491,385	$ 7,629,527
Mortgage Principal Per Audit	5,905,863	5,990,421	5,990,421	5,990,421
Net Investment	$ 1,220,430	$ 1,455,138	$ 1,500,964	$ 1,639,106
Rate of Return	x 5.73%	x 5.44%	x 4.88%	x 5.15%
Audited Return on Real Property Equity	$ 69,931	$ 79,160	$ 73,247	$ 84,414
Promulgated Return on Real Property Equity	104,849	116,911	108,115	121,211
Overstated Return on Real Property Equity	$ 34,918	$ 37,751	$ 34,868	$ 36,797