



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
800 North Pearl Street
Albany, New York 12204

DAVID A. PATERSON
GOVERNOR

JAMES G. SHEEHAN
MEDICAID INSPECTOR GENERAL

November 19, 2010

[REDACTED]
Lutheran Center at Poughkeepsie
965 Dutchess Turnpike
Poughkeepsie, New York 12603

Re: Medicaid Rate Audit #07-4631
NPI Number: [REDACTED]
Provider Number: [REDACTED]

Dear [REDACTED]

Enclosed is the final report of the Office of the Medicaid Inspector General's (the "OMIG") audit of Lutheran Center at Poughkeepsie's (the "Facility") Medicaid rates for the rate period January 1, 2003 through December 31, 2006. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft report.

In response to the draft report dated February 18, 2010, you identified specific audit findings with which you disagreed. Your comments have been considered and the report has been either revised accordingly and/or amended to address your comments. Consideration of your comments resulted in a reduction of \$54,707 to the Medicaid overpayment. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$918,548. 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:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 1237
File #07-4631
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
[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. If you have any questions regarding the above, please contact [REDACTED] at [REDACTED]

Sincerely,

[REDACTED]
Coordinator Medical Facilities Audit
Division of Medicaid Audit
Audit Management and Development
Office of the Medicaid Inspector General

Attachments:

- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Property Expense Disallowances/(Allowances)

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

AUDITEE NAME AND ADDRESS:

LUTHERAN CENTER AT
POUGHKEEPSIE
965 DUTCHESS TURNPIKE
POUGHKEEPSIE, NY 12603

AMOUNT DUE: \$918,548

NPI # [REDACTED]

PROVIDER # [REDACTED]

AUDIT #07-4631

**AUDIT
TYPE**

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
GNARESP Corning Tower, Room 1237
File #07-4631
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

LUTHERAN CENTER AT POUGHKEEPSIERATE PERIODS JANUARY 1, 2003 THROUGH DECEMBER 31, 2006
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED RATES*</u>		<u>FINAL RATES</u>		<u>RATE</u>	<u>MEDICAID</u>	<u>MEDICAID</u>
	<u>Non-Elig.</u>	<u>Eligible</u>	<u>Non-Elig.</u>	<u>Eligible</u>	<u>DECREASE (INCREASE)</u>	<u>DAYS</u>	<u>OVERPAYMENT</u>
01/01/03-02/28/03	\$187.30	\$185.87	\$184.66	\$183.23	\$2.64	6,225	\$ 16,434
03/01/03-05/31/03	186.44	185.01	183.80	182.37	2.64	9,673	25,537
06/01/03-08/31/03	187.36	185.93	184.72	183.29	2.64	9,813	25,906
09/01/03-11/30/03	188.32	186.89	185.68	184.25	2.64	9,317	24,597
12/01/03-12/31/03	189.38	187.95	186.74	185.31	2.64	3,133	8,271
01/01/04-02/29/04	194.00	192.54	183.58	182.12	10.42	5,961	62,114
03/01/04-03/31/04	194.11	192.65	183.69	182.23	10.42	3,139	32,708
04/01/04-05/31/04	194.11	192.65	183.69	182.23	10.42	5,908	61,561
06/01/04-08/31/04	194.90	193.44	184.48	183.02	10.42	8,133	84,746
09/01/04-11/30/04	194.46	193.00	184.04	182.58	10.42	8,144	84,860
12/01/04-12/31/04	195.88	194.42	185.46	184.00	10.42	2,686	27,988
01/01/05-02/28/05	186.39	184.90	177.52	176.03	8.87	5,047	44,767
03/01/05-05/31/05	182.72	181.23	173.85	172.36	8.87	8,550	75,839
06/01/05-06/30/05	181.92	180.43	173.05	171.56	8.87	2,675	23,727
07/01/05-08/31/05	190.13	188.64	181.26	179.77	8.87	5,503	48,812
09/01/05-11/30/05	191.71	190.22	182.84	181.35	8.87	7,771	68,929
12/01/05-12/31/05	191.14	189.65	182.27	180.78	8.87	2,411	21,386
01/01/06-02/28/06	189.32	187.79	182.88	181.35	6.44	4,466	28,761
03/01/06-03/31/06	191.60	190.07	185.16	183.63	6.44	2,416	15,559
04/01/06-05/31/06	191.23	189.71	184.79	183.27	6.44	4,702	30,281
06/01/06-08/31/06	195.44	193.92	189.00	187.48	6.44	7,008	45,132
09/01/06-11/30/06	190.08	188.56	183.64	182.12	6.44	7,249	46,684
12/01/06-12/31/06	194.05	192.53	187.61	186.09	6.44	2,166	13,949
TOTAL MEDICAID OVERPAYMENT							<u>\$ 918,548</u>

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

LUTHERAN CENTER AT POUGHKEEPSIE
RATE PERIODS JANUARY 1, 2003 THROUGH DECEMBER 31, 2006
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 64 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.

<u>RATE PERIOD</u>	ISSUED RATES	
	<u>Non-Elig.</u>	<u>Eligible</u>
01/01/03-02/28/03	\$187.30	\$185.87
03/01/03-05/31/03	186.44	185.01
06/01/03-08/30/03	187.36	185.93
09/01/03-11/30/03	188.32	186.89
12/01/03-12/31/03	189.38	187.95
01/01/04-02/29/04	194.00	192.54
03/01/04-03/31/04	194.11	192.65
04/01/04-05/31/04	194.11	192.65
06/01/04-08/31/04	194.90	193.44
09/01/04-11/30/04	194.46	193.00
12/01/04-12/31/04	195.88	194.42
01/01/05-02/28/05	186.39	184.90
03/01/05-05/31/05	182.72	181.23
06/01/05-06/30/05	181.92	180.43
07/01/05-08/31/05	190.13	188.64
09/01/05-11/30/05	191.71	190.22
12/01/05-12/31/05	191.14	189.65
01/01/06-02/28/06	189.32	187.79
03/01/06-03/31/06	191.60	190.07
04/01/06-05/31/06	191.23	189.71
06/01/06-08/31/06	195.44	193.92
09/01/06-11/30/06	190.08	188.56
12/01/06-12/31/06	194.05	192.53

LUTHERAN CENTER AT POUGHKEEPSIE
RATE PERIODS JANUARY 1, 2003 THROUGH DECEMBER 31, 2006
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEARS			
					2003	2004	2005	2006
Property Expense Allowed per HE-12B					\$ 2,265,567	\$ 2,197,007	\$ 2,133,226	\$ 1,547,395
Less Disallowances/(Allowances):								
1. BUILDING DEPRECIATION DISALLOWANCES/(ALLOWANCES)								
a) All voluntary residential health care facilities are required to fund depreciation. The audit disclosed that the Facility did not adequately fund its depreciation expense. Since the depreciation exceeded audited funding, the expense was limited to the amount actually funded.	Bldg. Depr.	001	\$474,975	95.25%		452,414		
	Bldg. Depr.	001	462,231	93.17%				430,661
Regulation: 10 NYCRR Section 86-2.19(b)								
b) Providers are required to provide adequate cost data that can be verified. Audited building depreciation varied from the amount allowed in the rate. Consequently, disallowances/(allowances) were necessary.	Bldg. Depr.	001	(22,541)	92.22%			(20,787)	
	Bldg. Depr.	001	5,570	93.17%				5,190
Regulation: PRM-1 Sections 2300 & 2304								
2. MORTGAGE INTEREST DISALLOWANCES/(ALLOWANCES)								
Mortgage interest expense is reimbursed on a rate year basis. Providers are required to provide adequate cost data that can be verified. Audited mortgage interest expense varied from the amount allowed in the rate. Additionally, adjustments to the over-mortgaging percentage were necessary. Finally, in March of 2005, the Facility refinanced the mortgage at a lower interest rate. As a result of the lower rate, interest paid was less than the amount included in the rate. Consequently, disallowances/(allowances) were necessary.	Mort. Int.	003	11,014	95.25%	10,491			
	Mort. Int.	003	8,894	95.25%		8,472		
	Mort. Int.	003	453,103	92.22%			417,852	
	Mort. Int.	003	(6,396)	93.17%				(5,959)
Regulation: PRM-1 Sections 2300 & 2304								
3. PROPERTY/BOILER INSURANCE DISALLOWANCES								
Providers are required to provide adequate cost data that can be verified. Audited property/boiler insurance varied from the amount allowed in the rate. Consequently, disallowances/(allowances) were necessary.	Prop. Ins.	005	3,667	98.65%	3,617			
	Boiler Ins.	003	480	95.25%	457			
	Prop. Ins.	005	237	98.65%		234		
	Boiler Ins.	003	422	95.25%		402		
	Prop. Ins.	005	(1,151)	92.31%			(1,062)	
	Boiler Ins.	003	31	92.22%			29	
	Prop. Ins.	005	2,546	93.96%				2,392

LUTHERAN CENTER AT POUGHKEEPSIE
RATE PERIODS JANUARY 1, 2003 THROUGH DECEMBER 31, 2006
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEARS			
					2003	2004	2005	2006
4. MOVABLE EQUIPMENT DEPRECIATION DISALLOWANCES/(ALLOWANCE)								
a) All voluntary residential health care facilities are required to fund depreciation. The audit disclosed that the Facility did not adequately fund its depreciation expense. Since the depreciation exceeded audited funding, the expense was limited to the amount actually funded.	ME Depr.	002	52,947	95.25%		50,432		
	ME Depr.	002	62,706	93.17%				58,423
Regulation: 10 NYCRR Section 86-2.19(b)								
b) 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.	ME Depr.	002	596	95.25%	568			
	ME Depr.	002	596	95.25%		568		
	ME Depr.	002	596	92.22%			550	
	ME Depr.	002	596	93.17%				555
Regulation: 10 NYCRR Section 86-2.17(d)								
c) Providers are required to provide adequate cost data that can be verified. Audited movable equipment depreciation varied from the amount allowed in the rate. Consequently, disallowances/(allowances) were necessary.	ME Depr.	002	16,117	95.25%	15,351			
	ME Depr.	002	(7,353)	95.25%		(7,004)		
	ME Depr.	002	51,116	92.22%			47,139	
	ME Depr.	002	11,121	93.17%				10,361
Regulation: PRM-1 Sections 2300 & 2304								
5. EQUIPMENT RENTAL EXPENSE DISALLOWANCES/(ALLOWANCES)								
Providers are required to provide adequate cost data that can be verified. Audited equipment rental expense varied from the amount allowed in the rate. Consequently, disallowances/(allowances) were necessary.	Rent A	001	312	95.25%	296			
	Rent A	006	401	93.14%				372
	Rent B	001	5,172	95.25%	4,926			
	Rent B	004	(355)	93.96%				(334)
	Rent C	001	2,801	95.25%	2,668			
	Rent C	005	(111)	93.96%				(104)
	Rent D	005	1,072	93.96%				1,007
	Rent E	051	3,996	100.00%				3,996
Regulation: PRM-1 Sections 2300 & 2304								
6. AUTO INSURANCE DISALLOWANCES								
Providers are required to provide adequate cost data that can be verified. Audited auto insurance varied from the amount allowed in the rate. Consequently, disallowances were necessary.	Auto Ins.	005	1,051	92.31%			970	
	Auto Ins.	005	1,034	93.96%				972
Regulation: PRM-1 Sections 2300 & 2304								
7. DORMITORY AUTHORITY FEES DISALLOWANCE								
Providers are required to provide adequate cost data that can be verified. In rate year 2005, audited dormitory authority fees varied from the amount allowed in the rate. Consequently, a disallowance was necessary. In rate year 2006, reported fees were not allowed in the initial rate computation. However, these fees were determined to be allowable per audit. Consequently, an allowance was necessary for rate year 2006. Item #7 within Appeal #633410 (Reimbursement of Letter of Credit and Dormitory Fees) is settled with this adjustment. The facility has withdrawn the appeal issue in a letter to BLTCR dated January 20, 2010.	Mort. Ins.	005	1,613	92.31%			1,489	
	Mort. Ins.	005	(27,011)	93.96%				(25,380)
Regulation: PRM-1 Sections 2300 & 2304								

LUTHERAN CENTER AT POUGHKEEPSIE
RATE PERIODS JANUARY 1, 2003 THROUGH DECEMBER 31, 2006
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	RATE YEARS			
					2003	2004	2005	2006
8. MORTGAGE EXPENSE AMORTIZATION DISALLOWANCES								
a) Mortgage expense amortization was determined to be included within the building component of Approved Project Cost (APC) #920695. Reported mortgage expense amortization was disallowed since it is being already reimbursed through the APC building and fixed equipment depreciation. Regulation: 10 NYCRR Sections 86-2.17(a) & 86-2.17(d)	Mort. Exp. Amort.	001	41,202	95.25%	39,245			
	Mort. Exp. Amort.	001	41,202	93.17%				38,388
b) Mortgage expense amortization is reimbursed on a two year lag basis. The OMIG determined that the Facility did not incur any refinancing mortgage expense applicable to rate year 2004. Consequently, a disallowance was necessary. Regulation: 10 NYCRR Sections 86-2.17(a) & 86-2.17(d)	Mort. Exp. Amort.	001	35,258	93.17%				32,850
9. LETTER OF CREDIT FEES DISALLOWANCES/(ALLOWANCE)								
Providers are required to provide adequate cost data that can be verified. Audited letter of credit fees varied from the amounts allowed in the rate. Consequently, disallowances were necessary. For rate year 2006, reported fees were not allowed in the initial rate computation. However, these fees were determined to be allowable per audit. Consequently, an allowance was necessary for rate year 2006. Item #7 within Appeal #633410 (Reimbursement of Letter of Credit and Dormitory Fees) is settled with this adjustment. The facility has withdrawn the appeal issue in a letter to BLTCR dated January 20, 2010. Regulation: PRM-1 Sections 2300 & 2304	LOC Fees	005	9,548	98.65%	9,419			
	LOC Fees	005	86,011	98.65%		84,850		
	LOC Fees	005	63,848	92.31%			58,938	
	LOC Fees	005	(212,128)	93.96%				(199,315)
10. START-UP COST AMORTIZATION DISALLOWANCES								
The Facility amortized start-up costs of \$344,106 related to APC #920695 over a five year period. This expense was fully amortized prior to rate year 2003. Since the costs were fully reimbursed prior to rate year 2003, the start-up costs included in the 2003 rates were disallowed. Regulation: PRM-1 Section 2132, 10 NYCRR Section 86-2.17(d)	Start-Up Amort.	001	68,821	95.25%	65,552			
11. RELATED PARTY EXPENSE DISALLOWANCE								
Providers are required to provide adequate cost data that can be verified. The Facility was unable to provide documentation for related party expenses. Consequently, the unsubstantiated expenses were disallowed. Regulation: PRM-1 Sections 2300 & 2304	Other	005	14,890	93.96%				13,991
Total Disallowances/(Allowances)					\$ 152,590	\$ 590,368	\$ 505,118	\$ 368,066
AUDITED PROPERTY EXPENSE					\$ 2,112,977	\$ 1,606,640	\$ 1,628,108	\$ 1,179,329