



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

DAVID A. PATERSON  
GOVERNOR

JAMES G. SHEEHAN  
MEDICAID INSPECTOR GENERAL

November 22, 2010

[REDACTED]  
Achieve Rehabilitation and Nursing Facility  
170 Lake Street  
Liberty, New York 12754

Re: Medicaid Rate Audit #09-3756  
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 Achieve Rehabilitation and Nursing Facility's (the "Facility") Medicaid rates for the rate period April 1, 2003 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 report.

Since you did not respond to our draft report dated August 18, 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 \$618,666. 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 #09-3756  
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 [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 me at [REDACTED]

Sincerely,

[REDACTED]

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 - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)
- EXHIBIT V - Summary of Changes to Per Diem Adjustments

CERTIFIED MAIL # [REDACTED]  
RETURN RECEIPT REQUESTED

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

**NAME AND ADDRESS OF AUDITEE**

**ACHIEVE REHABILITATION AND  
NURSING FACILITY  
170 LAKE STREET  
LIBERTY, NEW YORK 12754**

**NPI #:** [REDACTED]

**PROVIDER #:** [REDACTED]

**AUDIT #09-3756**

**AMOUNT DUE: \$618,666**

**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 #09-3756  
Albany, New York 12237-0048

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

[REDACTED]

**CORRECT PROVIDER NUMBER**

**ACHIEVE REHABILITATION & NURSING FACILITY**  
**RATE PERIODS APRIL 1, 2003 THROUGH DECEMBER 31, 2008**  
**SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT**

RATE PERIOD	ISSUED RATES*		FINAL RATES		RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
	Medicare Part B		Medicare Part B				
	Non-Elig.	Eligible	Non-Elig.	Eligible			
04/01/03 - 04/30/03	\$189.93	189.92	\$188.12	188.11	\$ 1.81	3,074	\$ 5,564
05/01/03 - 06/15/03	188.41	188.40	186.63	186.62	1.78	4,662	8,298
06/16/03 - 07/31/03	188.41	188.40	186.63	186.62	1.78	4,790	8,526
08/01/03 - 10/31/03	190.66	190.65	188.85	188.84	1.81	9,930	17,973
11/01/03 - 12/31/03	191.99	191.98	190.18	190.17	1.81	6,765	12,245
01/01/04 - 01/31/04	197.75	197.74	195.97	195.96	1.78	3,453	6,146
02/01/04 - 03/31/04	198.14	198.13	196.34	196.33	1.80	5,979	10,762
04/01/04 - 04/30/04	198.14	198.13	196.34	196.33	1.80	2,840	5,112
05/01/04 - 07/31/04	208.39	208.38	206.59	206.58	1.80	8,098	14,576
08/01/04 - 10/31/04	208.33	208.32	206.55	206.54	1.78	8,393	14,940
11/01/04 - 12/31/04	206.64	206.63	204.86	204.85	1.78	5,828	10,374
01/01/05 - 01/31/05	210.54	210.53	208.95	208.94	1.59	3,012	4,789
02/01/05 - 04/30/05	210.44	210.43	208.85	208.84	1.59	8,251	13,119
05/01/05 - 06/30/05	198.77	198.76	197.18	197.17	1.59	5,228	8,313
07/01/05 - 07/31/05	200.73	200.72	199.47	199.46	1.26	2,712	3,417
08/01/05 - 10/31/05	206.43	206.42	205.17	205.16	1.26	8,100	10,206
11/01/05 - 12/31/05	212.33	212.32	211.07	211.06	1.26	5,523	6,959
01/01/06 - 01/31/06	226.26	226.25	220.25	220.24	6.01	2,910	17,489
02/01/06 - 03/31/06	231.60	231.59	225.57	225.56	6.03	5,613	33,846
04/01/06 - 04/30/06	231.10	231.09	225.07	225.06	6.03	3,000	18,090
05/01/06 - 07/31/06	225.77	225.76	219.76	219.75	6.01	9,750	58,598
08/01/06 - 10/31/06	230.62	230.61	224.59	224.58	6.03	9,070	54,692
11/01/06 - 12/31/06	244.64	244.63	238.62	238.61	6.02	5,667	34,115
01/01/07 - 03/31/07	252.88	252.87	250.62	250.61	2.26	8,669	19,592
04/01/07 - 06/30/07	251.54	251.53	249.28	249.27	2.26	8,882	20,073
07/01/07 - 08/31/07	249.74	249.73	247.50	247.49	2.24	6,222	13,937
09/01/07 - 12/31/07	249.74	249.73	247.50	247.49	2.24	12,383	27,738
01/01/08 - 03/31/08	255.70	255.69	251.17	251.16	4.53	9,267	41,980
04/01/08 - 06/30/08	251.11	251.10	246.60	246.59	4.51	8,406	37,911
07/01/08 - 12/31/08	255.53	255.52	251.02	251.01	4.51	17,580	79,286
<b>Total Medicaid Overpayment</b>							<b>\$ 618,666</b>

\* 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 Office of the Medicaid Inspector General.

**ACHIEVE REHABILITATION & NURSING FACILITY**  
**RATE PERIODS APRIL 1, 2003 THROUGH DECEMBER 31, 2008**  
**SUMMARY OF MEDICAID RATES AUDITED**

The facility's Medicaid utilization was approximately 74 to 81 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 Office of the Medicaid Inspector General.

<b><u>RATE PERIOD</u></b>	<b><u>ISSUED RATES</u></b>	
	<b><u>Non-Elig.</u></b>	<b><u>Eligible</u></b>
04/01/03 - 04/30/03	\$ 189.93	\$ 189.92
05/01/03 - 06/15/03	188.41	188.40
06/16/03 - 07/31/03	188.41	188.40
08/01/03 - 10/31/03	190.66	190.65
11/01/03 - 12/31/03	191.99	191.98
01/01/04 - 01/31/04	197.75	197.74
02/01/04 - 03/31/04	198.14	198.13
04/01/04 - 04/30/04	198.14	198.13
05/01/04 - 07/31/04	208.39	208.38
08/01/04 - 10/31/04	208.33	208.32
11/01/04 - 12/31/04	206.64	206.63
01/01/05 - 01/31/05	210.54	210.53
02/01/05 - 04/30/05	210.44	210.43
05/01/05 - 06/30/05	198.77	198.76
07/01/05 - 07/31/05	200.73	200.72
08/01/05 - 10/31/05	206.43	206.42
11/01/05 - 12/31/05	212.33	212.32
01/01/06 - 01/31/06	226.26	226.25
02/01/06 - 03/31/06	231.60	231.59
04/01/06 - 04/30/06	231.10	231.09
05/01/06 - 07/31/06	225.77	225.76
08/01/06 - 10/31/06	230.62	230.61
11/01/06 - 12/31/06	244.64	244.63
01/01/07 - 03/31/07	252.88	252.87
04/01/07 - 06/30/07	251.54	251.53
07/01/07 - 08/31/07	249.74	249.73
09/01/07 - 12/31/07	249.74	249.73
01/01/08 - 03/31/08	255.70	255.69
04/01/08 - 12/31/08	251.11	251.10

**ACHIEVE REHABILITATION & NURSING FACILITY**  
**RATE PERIODS APRIL 1, 2003 THROUGH DECEMBER 31, 2008**  
**OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)**

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	OPERATING EXPENSE COMPONENT			
					DIRECT	INDIRECT	NON-COMP. 4/1/03-2006 Rates	NON-COMP. 2007-2008 Rates
Expense Allowed on HE-12B					\$ 5,297,626	\$ 2,814,404	\$ 1,146,258	\$ 895,718
Less Disallowances/(Allowances):								
<b>1. DISALLOWANCE OF EXPENSE NOT RELATED TO PATIENT CARE</b>								
Water and sewer expense included late charges paid to the Village of Liberty Waterworks. It is the determination of the Commissioner that late charges are not an allowable expense. Consequently, the expense was disallowed. <b>Regulations: 10 NYCRR Part 86-2.17(a) &amp; (d), PRM-1 Sections 2102.2 &amp; 2103</b>	Utilities	106	\$ 1,869	100.00%			1,869	1,869
<b>2. PRIOR PERIOD EXPENSE DISALLOWANCE</b>								
Medical Director's fees included prior period charges that were not related to the base period under audit. Consequently, the expenses were disallowed. <b>Regulations: 10 NYCRR Sections 86-2.4 &amp; 86-2.17 (a)</b>	Med. Director	017	2,400	100.00%			2,400	2,400
<b>3. RECLASSIFICATION OF EXPENSE</b>								
Inhalation therapy expense included placement fees paid for the procurement of employees. Expenses associated with the selection and recruitment of employees should properly be reported as an administrative expense. As a result, these fees were reclassified to the Administrative Services cost center. <b>Regulations: 10 NYCRR Section 455.5</b>	Inhal. Therapy	038	13,728	100.00%			13,728	13,728
	Administrative	005	(13,728)	100.00%		(13,728)		
<b>4. DISALLOWANCE OF EXPENSE NOT INCURRED</b>								
Psychiatric purchased services expense included a charge for psychological analysis which the facility did not pay and subsequently reversed in the following cost period. Consequently, the expense was disallowed. <b>Regulations: 10 NYCRR Sections 86-2.17(a) &amp; (d)</b>	Psychiatric	038	10,000	100.00%			10,000	10,000
<b>Total Disallowance/(Allowance)</b>					-	(13,728)	27,997	27,997
<b>AUDITED OPERATING EXPENSE</b>					\$ 5,297,626	\$ 2,828,132	\$ 1,118,261	\$ 867,721



**ACHIEVE REHABILITATION & NURSING FACILITY**  
**RATE PERIODS APRIL 1, 2003 THROUGH DECEMBER 31, 2008**  
**PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEAR					
					04/01/03	2004	2005	2006	2007	2008
<b>5. CAPITALIZED LEASE EXPENSE DISALLOWANCE</b>										
Due to the fact that the Facility's April 1, 2003 through March 31, 2004 costs were used to establish the property component of the rate for its first 33 months of operation, several equipment leases were over reimbursed. It is the Commissioner's determination that lease payments be allowed in lieu of depreciation and interest on capitalized leases. Capital lease expense allowed in the 2007 and 2008 rate computation was adjusted to reimburse the actual audited lease payments.										
<b>Regulations: 10 NYCRR Section 86-2.17(d)</b>										
	Rent A	002	29,741	100.00%					29,741	
	Rent A	002	126,295	100.00%						126,295
<b>6. UNSUBSTANTIATED EQUIPMENT RENTAL EXPENSE</b>										
The Facility was unable to substantiate two charges that were posted to the computer rental account. Facilities are required to provide adequate cost data that can be verified. Consequently, the unsubstantiated expense was disallowed.										
<b>Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 &amp; 2304</b>										
	Rent B	004	1,425	100.00%						1,425
<b>7. DUPLICATE REIMBURSEMENT OF NON-CAPITALIZED LEASES</b>										
The Facility was reimbursed twice for a copier lease on Schedule VI of the 2006 HE-12B. The duplicate lease reimbursement was disallowed.										
<b>Regulations: 10 NYCRR Sections 86-2.17(a) &amp; (d)</b>										
	Rent I	004	11,286	99.98%				11,283		
<b>8. PRIOR PERIOD EXPENSE DISALLOWANCE</b>										
Computer rental expense included prior period charges that were not related to the base period under audit. Consequently, the expenses were disallowed.										
<b>Regulations: 10 NYCRR Sections 86-2.4, 2.17(a) &amp; (d)</b>										
	Rent I	004	1,711	100.00%	1,711	1,711	1,711			
<b>9. AUTO INSURANCE DISALLOWANCE</b>										
The Facility was unable to fully document that the reported automobiles were used for patient care purposes. Automobile insurance applicable to the unsubstantiated portion of automobile usage was disallowed. See Adjustment 3 for further details.										
<b>Regulations: 10 NYCRR Sections 86-2.17(a) &amp; (d), PRM-1 Section 2300</b>										
	Auto Ins.	006	14,338	100.00%	14,338	14,338	14,338			
	Auto Ins.	006	19,017	100.00%				19,017		
	Auto Ins.	006	17,742	100.00%					17,742	
	Auto Ins.	006	11,839	100.00%						11,839

**ACHIEVE REHABILITATION & NURSING FACILITY**  
**RATE PERIODS APRIL 1, 2003 THROUGH DECEMBER 31, 2008**  
**PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE YEAR					
					04/01/03	2004	2005	2006	2007	2008
<b>10. DUPLICATE REIMBURSEMENT OF LEASEHOLD IMPROVEMENTS</b>										
Leasehold improvements were included in historical cost and also reimbursed as a capitalized lease on Schedule VI of the 2006 HE-12B. Since leasehold improvements are properly included in historical costs, the reimbursement of the capitalized lease payments was disallowed. Regulations: 10 NYCRR Sections 86-2.17(a) & (d)	Other-LHI	006	161,582	100.00%				161,582		
<b>11. EXCESS ORGANIZATION COST AMORTIZATION</b>										
Amortization of organization costs was allowed in the rate periods April 1, 2003 through December 31, 2008, a total of 69 months. It is the determination of the Commissioner that organization costs be amortized over a 60 month period and reimbursed accordingly. Expense reimbursement over the actual incurred is not allowable. Consequently, the excess amortization reimbursement was disallowed. Regulations: 10 NYCRR Sections 86-2.17 (a) & (d), PRM-1 Section 2134.2	Orgn/Strt-Up	005	25,574	100.00%						25,574
<b>Total Disallowance/(Allowance)</b>					40,936	40,936	40,936	238,387	66,023	180,056
<b>AUDITED PROPERTY EXPENSE</b>					\$691,524	\$690,524	\$624,106	\$667,223	\$905,928	\$ 902,314

**ACHIEVE REHABILITATION & NURSING FACILITY**  
**RATE PERIODS APRIL 1, 2003 THROUGH DECEMBER 31, 2008**  
**SUMMARY OF CHANGES TO PER DIEM ADJUSTMENTS**

An adjustment was made to revise the Medicaid patient days used to calculate the Nursing Home Quality Improvement Grant and the Health Recruitment and Retention (HR&R) Grant per diems. The estimated Medicaid patient days used to calculate the per diems were revised to actual Medicaid patient days. For the HR&R per diem, actual Medicaid days are based on a two-year lag as required in the regulation. Details of the adjustments to the per diems were provided to the Facility during the audit. The adjustment to the per diems are noted below.

	<u>RATE PERIOD</u>	<u>PER DIEMS</u>		<u>PER DIEM DECREASE (INCREASE)</u>
		<u>PER HE-12B</u>	<u>PER AUDIT</u>	
<b><u>NURSING HOME QUALITY IMPROVEMENT GRANT</u></b>	04/01/2003 - 12/31/2003	\$ 1.76	\$ 1.45	\$ 0.31
	01/01/2004 - 12/31/2004	1.87	1.60	0.27
	07/01/2005 - 12/31/2005	1.95	2.29	(0.34)
	01/01/2006 - 12/31/2006	1.07	1.03	0.04
	01/01/2007 - 06/30/2007	1.72	1.56	0.16
<b><u>HEALTH RECRUITMENT AND RETENTION GRANT</u></b>	04/01/2003 - 12/31/2003	\$ 1.60	\$ 1.61	\$ (0.01)
	01/01/2004 - 12/31/2004	2.54	2.53	0.01
	01/01/2005 - 06/30/2005	2.48	2.50	(0.02)
	07/01/2005 - 12/31/2005	2.49	2.50	(0.01)
	01/01/2006 - 12/31/2006	2.89	2.87	0.02
	01/01/2007 - 06/30/2007	2.89	3.03	(0.14)
	07/01/2007 - 12/31/2007	2.81	2.81	-
	01/01/2008 - 03/31/2008	2.81	2.81	-