



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]
East Rockaway Progressive Care Facility
243 Atlantic Avenue
East Rockaway, New York 11563

Re: Medicaid Rate Audit #09-4249
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 East Rockaway Progressive Care Facility's (the "Facility") Medicaid rates for the rate period January 1, 2005 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 3, 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 \$106,760, \$21,712 more than in the draft report. The difference is due to the failure to include the operating impact in the draft report. 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 #09-4249
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 [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 - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)
- EXHIBIT V - Return on and Return of Real Property Equity Disallowances/(Allowances)
- EXHIBIT VI - Correction of Patient Days

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

East Rockaway Progressive Care
Facility
243 Atlantic Avenue
East Rockaway, New York 11563

NPI # [REDACTED]
PROVIDER # [REDACTED]

AUDIT #09-4249

AMOUNT DUE: \$106,760

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 #09-4249
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

<u>RATE PERIOD</u>	<u>ISSUED RATES*</u>		<u>FINAL RATES</u>		<u>RATE DECREASE (INCREASE)</u>	<u>MEDICAID DAYS</u>	<u>MEDICAID OVERPAYMENT</u>
	<u>Medicare Part B Non-Elig.</u>	<u>Medicare Part B Eligible</u>	<u>Medicare Part B Non-Elig.</u>	<u>Medicare Part B Eligible</u>			
01/01/05 - 01/31/05	\$213.05	\$ 213.03	\$ 211.88	\$ 211.86	\$1.17	2,289	\$ 2,678
02/01/05 - 04/30/05	219.31	219.29	218.13	218.11	1.18	6,060	7,151
05/01/05 - 06/30/05	224.87	224.85	223.68	223.66	1.19	4,013	4,775
07/01/05 - 07/31/05	224.87	224.85	223.68	223.66	1.19	2,199	2,617
08/01/05 - 10/31/05	225.42	225.40	224.23	224.21	1.19	6,658	7,923
11/01/05 - 12/31/05	224.08	224.06	222.89	222.87	1.19	4,573	5,442
01/01/06 - 01/31/06	232.12	232.10	230.72	230.70	1.40	2,066	2,892
02/01/06 - 03/31/06	238.15	238.13	236.77	236.75	1.38	3,991	5,508
04/01/06 - 04/30/06	237.60	237.58	236.23	236.21	1.37	2,048	2,806
05/01/06 - 07/31/06	242.81	242.79	241.41	241.39	1.40	6,332	8,865
08/01/06 - 08/31/06	237.99	237.97	236.59	236.57	1.40	2,172	3,041
09/01/06 - 10/31/06	237.99	237.97	236.59	236.57	1.40	4,263	5,968
11/01/06 - 12/31/06	239.25	239.23	237.83	237.81	1.42	4,306	6,115
01/01/07 - 03/31/07	247.68	247.66	247.93	247.91	(0.25)	6,445	(1,611)
04/01/07 - 06/30/07	246.31	246.29	246.57	246.55	(0.26)	5,566	(1,447)
07/01/07 - 12/31/07	244.05	244.03	244.31	244.29	(0.26)	11,728	(3,049)
01/01/08 - 03/31/08	252.22	252.20	250.19	250.17	2.03	5,402	10,966
04/01/08 - 06/30/08	247.34	247.32	245.30	245.28	2.04	5,955	12,148
07/01/08 - 12/31/08	252.61	252.59	250.57	250.55	2.04	11,751	<u>23,972</u>
TOTAL MEDICAID OVERPAYMENT							<u>\$ 106,760</u>

* 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.

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 68 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>	<u>ISSUED RATES</u>	
	<u>Non-Elig.</u>	<u>Eligible</u>
01/01/05 - 01/31/05	\$213.05	\$ 213.03
02/01/05 - 04/30/05	219.31	219.29
05/01/05 - 06/30/05	224.87	224.85
07/01/05 - 12/31/05	224.87	224.85
01/01/06 - 03/31/06	232.95	232.93
04/01/06 - 12/31/06	232.42	232.40
01/01/07 - 03/31/07	240.67	240.65
04/01/07 - 06/30/07	239.35	239.33
07/01/07 - 12/31/07	237.09	237.07
01/01/08 - 03/31/08	245.11	245.09
04/01/08 - 12/31/08	240.29	240.27

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

		<u>OPERATING EXPENSE COMPONENT</u>			
				<u>01/01/05- 12/31/06 NON- COMP.</u>	<u>01/01/07- 12/31/08 NON- COMP.</u>
<u>DESCRIPTION</u>	<u>COST CENTER</u>	<u>DIRECT</u>	<u>INDIRECT</u>		
Operating Expense Allowed per HE-12B		\$ 4,168,575	\$ 2,201,297	\$ 322,495	\$ 166,432
Less Disallowances/(Allowances):					
ELIMINATION OF SALES TAX EXPENSE					
Beginning with the 2004 rates, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. Prior to 2004, the sales tax expense associated with operating expense was included in the appropriate operating expense category and reimbursed in the operating per diem. By reporting all sales tax in property, the Facility is being reimbursed for sales tax in both the operating and property per diems. In order to eliminate the duplication, sales tax expense was excluded from the base period (03/01/1998 – 02/28/1999) operating expense for the 2005 through 2008 rates.					
Regulations: 10 NYCRR Sections 86-2.17 (a) & (d)					
	Fiscal		821		
	Admin.		412		
	Plant Oper.		758		
	Laundry		179		
	Housekeeping		1,471		
	Activities	167			
	Central Svc.	6,326			
Total Disallowances/(Allowances)		<u>\$ 6,493</u>	<u>\$ 3,641</u>	<u>\$ -</u>	<u>\$ -</u>
AUDITED OPERATING EXPENSE BY COMPONENT		<u><u>\$ 4,162,082</u></u>	<u><u>\$ 2,197,656</u></u>	<u><u>\$ 322,495</u></u>	<u><u>\$ 166,432</u></u>

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>DESCRIPTION</u>	<u>COST</u> <u>CTR.</u>	<u>RATE PERIODS</u>			
			<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Property Expense Allowed on HE-12B			\$ 352,598	\$ 340,131	\$ 485,688	\$ 583,846
Less Disallowances/(Allowances):						
1. RETURN OF/ON EQUITY DISALLOWANCES/(ALLOWANCES)						
A proprietary facility is entitled to return of/on equity for capital invested for the necessary and proper operation for patient care activities. Adjustments to accumulated reimbursement resulted in disallowances/(allowances) to the return of and return on equity. Refer to Exhibit V for details.	Return of Eq.	001		(310)	10,835	
	Return on Eq.	001		(76)	2,389	
Regulation: 10 NYCRR Section 86-2.21						
2. WORKING CAPITAL INTEREST DISALLOWANCE						
Allowable costs shall not include any interest charged related to rate determination or penalty imposed by governmental agencies or courts, and the costs of policies obtained solely to insure against the imposition of such a penalty. Interest expense imposed by the New York State Department of Health on outstanding cash assessment payments was disallowed.	WC Interest	005				24,975
Regulation: 10 NYCRR Section 86-2.17(g)						
3. AUTOMOBILE INSURANCE DISALLOWANCES						
Facilities receiving payments on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. Audited insurance varied from the insurance expense allowed in the rate resulting in disallowances.	Auto Ins.	005	22,393	19,058		
Regulations: PRM-1 Sections 2300 & 2304						

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS			
			2005	2006	2007	2008
4. EQUIPMENT RENTAL DISALLOWANCES						
a) Facilities receiving payments on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. Audited equipment rental expense varied from the rental expense allowed in the rate resulting in disallowances. Regulations: PRM-1 Sections 2300 & 2304	Rent A	004	1,062	2,575		
	Rent B	004			1,514	848
	Rent C	011				4,097
	Rent D	011			3,414	
b) Costs not related to patient care are costs that are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Only costs properly chargeable to necessary patient care are allowable. Costs pertaining to a luxury automobile are not related to patient care and were disallowed. Regulations: PRM-1 Section 2102.3, 10 NYCRR Section 86-2.17(a)	Rent A	005			220	23,429
	Rent B	005	8,495	16,193		
c) The allowable facility specific capital component of the rate shall include allowable capital costs. Reported rental expense included operating expense which should not be included in the capital component of the rate, resulting in disallowances. Regulation: 10 NYCRR Section 86-2.10(g)	Rent B	004				6,875
5. MORTGAGE INSURANCE DISALLOWANCES/(ALLOWANCE)						
Mortgage insurance expense was reimbursed on a rate year basis in the promulgated rates. Audited rate year mortgage insurance expense varied from the mortgage insurance allowed in the promulgated rates resulting in disallowances/(allowance). Regulations: PRM-1 Sections 2102.3, 2300, & 2304	Mort. Ins.	006	228	477	(30,697)	
6. MORTGAGE AMORTIZATION DISALLOWANCE/ALLOWANCE						
Facilities receiving payments on the basis of reimbursable costs are required to provide adequate cost data based on financial and statistical records that can be verified on audit. Cost data must be current, accurate, and in sufficient detail. Audited mortgage amortization expense varied from the expense allowed in the rate resulting in a disallowance and allowance. Regulations: 10 NYCRR Section 86-2.20(a), PRM-1 Sections 2300 & 2304	Mort. Amort.	001			(5,226)	4,259

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>DESCRIPTION</u>	<u>COST CTR.</u>	<u>RATE PERIODS</u>			
			<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
7. PROPERTY INSURANCE EXPENSE DISALLOWANCE						
Facilities who receive payments on the basis of reimbursable cost must provide adequate cost data based on financial and statistical records that can be verified on audit. The Facility did not provide adequate documentation to substantiate reported property insurance expense resulting in disallowances. Regulations: PRM-1 Sections 2102.3 & 2300, 10 NYCRR Section 86-2.17(a)	Prop. Ins.	006		248		
8. SALES TAX DISALLOWANCE						
The amount of sales tax reported by the Facility varied from the amount recorded on the Facility's general ledger. Consequently, a disallowance was necessary. Regulation: 10 NYCRR Section 86-2.10(a).	Sales Tax	005		1,889		220
Total Disallowances/(Allowances)			\$ 32,178	\$ 40,054	\$ (17,551)	\$ 64,703
AUDITED PROPERTY EXPENSE			\$ 320,420	\$ 300,077	\$ 503,239	\$ 519,143

EAST ROCKAWAY PROGRESSIVE CARE FACILITY

RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008

RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES/(ALLOWANCES)

	RATE PERIODS	
	<u>2006</u>	<u>2007</u>
<u>Return of Equity Calculation</u>		
Real Property Historical Cost per HE-12B	\$ 2,803,776	\$ 2,894,991
Audit Disallowances/(Allowances)	-	-
Audited Historical Cost	\$ 2,803,776	\$ 2,894,991
Less: Audited Accumulated Reimbursement	2,412,842	2,477,998
Audited Net Equity	\$ 390,934	\$ 416,993
Remaining Useful Life	6	5
Audited Return of Equity	\$ 65,156	\$ 83,399
Promulgated Return of Equity	64,846	94,232
Disallowance/(Allowance)	\$ (310)	\$ 10,833
<u>Return on Equity Calculation</u>		
Audited Historical Cost	\$ 2,803,776	\$ 2,894,981
Less: Accumulated Reimbursement	2,412,842	2,477,998
Less: ½ Current Return of Equity	32,578	41,700
Audited Net Investment	\$ 358,356	\$ 375,283
Rate of Return	4.45%	4.90%
Audited Return on Equity	\$ 15,947	\$ 18,389
Promulgated Return on Equity	15,871	20,778
Disallowance/(Allowance)	\$ (76)	\$ 2,389

EAST ROCKAWAY PROGRESSIVE CARE FACILITY
RATE PERIODS JANUARY 1, 2005 THROUGH DECEMBER 31, 2008
CORRECTION OF PATIENT DAYS

The audit of patient day statistics disclosed that the patient days reported were understated in the rate years 2006 and 2007. The following adjustments were necessary to include the proper days in the rate calculations.

Regulation: 10 NYCRR Section 86-2.8(c)

	<u>2006</u>	<u>2007</u>
Patient Days in Promulgated Rates	35,160	34,803
Patient Days Per Audit	35,335	34,848
Understated Patient Days	<u>175</u>	<u>45</u>