



STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL

259 Monroe Avenue, Room 312
Rochester, New York 12204

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

November 24, 2014

[REDACTED]
Jewish Home and Infirmary
of Rochester NY, Inc.
2021 Winton Road South
Rochester, New York 14618

Re: Medicaid Rate Audit #12-3245
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 Jewish Home and Infirmary of Rochester's (the "Facility") Medicaid rates for the rate period January 1, 2007 through December 31, 2008. In accordance with 18 NYCRR Section 517.6, this audit report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated September 12, 2014, you identified audit findings with which you disagreed. Your comments have been considered (see Attachment A); however, consideration of your comments did not result in revisions to the draft audit report findings. The final audit report Medicaid overpayment did increase \$197 due to a rounding difference in the audited rate calculations. 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. The Medicaid overpayment associated with OMIG adjustments was \$155,726. However, this audit also processed Bureau of Long Term Care Reimbursement appeals that resulted in an additional amount owed by the Facility of \$81,852. Consequently, based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$237,578. This overpayment is subject to Department of Health ("DOH") and Division of Budget ("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 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 #12-3245
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 50% withhold after 20 days until an agreement is established. 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. In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against any amount owed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days at the following:

Bureau of Collections Management
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

[REDACTED]

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 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 me at [REDACTED] or through email at [REDACTED]. Please refer to audit number 12-3245 in all correspondence.

Sincerely,

[REDACTED]

Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Enclosure:

Attachments:

- ATTACHMENT A - Facility Draft Report Comments and OMIG Responses
- EXHIBIT I - Summary of Per Diem Impact and Estimated Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)

[REDACTED]

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

Jewish Home and Infirmary
of Rochester NY, Inc.
2021 Winton Road South
Rochester, New York 14618

NPI #: [REDACTED]
PROVIDER #: [REDACTED]

AUDIT #12-3245

AMOUNT DUE: \$237,578

AUDIT	<input type="checkbox"/>	PROVIDER
TYPE	<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 #12-3245
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

**JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
FACILITY DRAFT AUDIT 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. See Attachment B for adjustment changes included in the final audit report.

EXHIBIT III COMMENTS- OPERATING EXPENSE DISALLOWANCES(ALLOWANCES)

A. Proposed Audit Adjustment: Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals

TERMINATED SERVICES EXPENSE DISALLOWANCE

Facility Comment

The Facility's appeals #732401 & #819006 request BLTCR to recalculate their rates because radiological service expenses were no longer being incurred as of February 1999. The Home does not object to this adjustment, disallowing the expense for the terminated radiology service, provided however that the adjustment also reflects a positive allowance for the cost of the Medical Director's office, also requested in the referenced Department of Health appeals.

In order to accurately determine the true amount overpaid to the Home in its rates, OMIG must consider any amounts identified to the auditors that were underpaid to the Home. *Buhlman v. New York State Office of the Medicaid Inspector General*, 106 A.D. 2d 1504 (4th Dep't 2013).

Consistent with 10 N.Y.C.R.R. section 86-2.13(b), at the exit conference the Home did bring to the auditor's attention the rate appeal item in the rate appeals being reviewed by the auditors, pertaining to the Medical Director's office, included, and asked them to incorporate that item into their audit findings as well.

The Home understood that the auditors had agreed to implement the positive rate appeal item and confirmed that understanding in a follow-up email sent on August 28, 2014 (see attached Exhibit B). Nevertheless, the proposed adjustment only reflects the negative item. Accordingly, if OMIG implements the unprocessed negative rate appeal item relating to the terminated radiology service, OMIG should also implement the pending positive rate appeal item in the same rate appeals relating to the Medical Director's office.

OMIG Response

The OMIG did not agree to allow the additional Medical Director's costs requested in the above referenced rate appeals. The Facility presented the appeals at the exit conference and the OMIG only agreed to further examine the matter. No commitments were made, and the Facility was informed that it was highly unlikely that the OMIG could address this issue because it appeared to be outside the OMIG's authority. After further review it was confirmed this was the case. A determination to allow the additional Medical Director's costs is a matter that can only be approved by the BLTCR. In fact, in its

response to one of the Facility's appeals, the BLTCR refused to reimburse additional Medical Director costs beyond what it had already allowed. Consequently, the OMIG cannot get involved in this matter or address this issue as part of this audit. On the other hand, the OMIG did have the authority to subtract the radiological expense from the Medicaid rate, and would have made the disallowance regardless of whether an appeal had been filed. Since the two issues are distinct in nature and in jurisdiction, the OMIG disallowance of radiological expense was valid and not contingent on a resolution of the Medical Director issue.

Disposition: The draft report disallowance remains unchanged.

JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
RATE PERIODS JANUARY 1, 2007 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>
01/01/07 - 03/31/07	\$182.81	\$180.83	\$ 1.98	19,618	\$ 38,844
04/01/07 - 06/30/07	181.87	179.90	1.97	19,708	38,825
07/01/07 - 08/31/07	178.48	176.51	1.97	13,391	26,380
09/01/07 - 12/31/07	178.48	176.51	1.97	25,790	50,806
01/01/08 - 03/31/08	182.88	181.77	1.11	18,379	20,401
04/01/08 - 06/30/08	179.32	178.21	1.11	18,333	20,350
07/01/08 - 12/31/08	183.60	182.49	1.11	37,813	41,972
TOTAL MEDICAID OVERPAYMENT					<u>\$ 237,578</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.

NOTE: Of the total Medicaid impact listed above, the impact associated with the processing of Bureau of Long Term Care open appeals is \$81,852 due the OMIG..

JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 71 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>
01/01/07 - 03/31/07	\$ 182.81
04/01/07 - 06/30/07	181.87
07/01/07 - 08/31/07	178.48
09/01/07 - 12/31/07	178.48
01/01/08 - 03/31/08	182.88
04/01/08 - 06/30/08	179.32
07/01/08 - 12/31/08	183.60

* 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.

JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	OPERATING EXPENSE COMPONENT			
					DIRECT	INDIRECT	NON- COMP.	
Operating Expense Allowed per HE-12B					\$ 2,170,666	\$ 1,750,794	\$ 331,832	
Less Disallowances/(Allowances):								
<u>Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals</u>								
TERMINATED SERVICES EXPENSE DISALLOWANCE								
The Facility's appeals #732401 & #819006 request BLTCR to recalculate their rates because radiological service expenses were no longer being incurred as of February 1999. The removal of radiological costs from trended base year expense is required to prevent the reimbursement of services that were terminated. Therefore, the base year expense associated with the terminated radiological services was disallowed. The Facility should notify BLTCR that this item of Appeal #732401 and #819006 was handled by OMIG on audit.								
Regulations: 10 NYCRR Sections 86-2.17(a) & (d), & 86-2.27								
Radiology					034	\$ 16,220	100.00%	16,220
BLTCR Open Appeals Operating Expense Disallowances/(Allowances)					\$ -	\$ -	\$ 16,220	
AUDITED OPERATING EXPENSE BY COMPONENT					\$ 2,170,666	\$ 1,750,794	\$ 315,612	

JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	RATE PERIODS			
					2007	2008		
Property Expense Allowed per HE-12B					\$	1,923,959	\$	1,774,741
Less Disallowances/(Allowances):								
1. MORTGAGE COST AMORTIZATION DISALLOWANCES								
Certain mortgage acquisition costs were disallowed by the Bureau of Long Term Care Reimbursement (BLTCR) in prior years (see audit #04-M04-1010). Therefore, the reimbursed amortization expense associated with these costs was disallowed.								
Regulations: 10NYCRR Section 86-2.17 (a)&(d)								
	Mtg. Exp. Amort.	001	\$ 5,121	91.65%	4,693			
	Mtg. Exp. Amort.	001	5,121	91.24%			4,672	
2. TELEPHONE EXPENSE DISALLOWANCES								
The BLTCR 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 cellular telephone rental expense in the property component amounts to duplicate reimbursement. Consequently, these rental expenses were disallowed from reimbursed property expenses.								
Regulation: 10 NYCRR Section 86-2.17 (a)&(d), BLTCR Rate Methodology								
	Rent B	005	7,788	93.22%	7,260			
	Rent B	005	7,580	92.55%			7,015	
3. REDUCTION TO INTEREST INCOME OFFSET								
BLTCR offset reported unrestricted investment income in the unaudited rates. Per audit, it was determined that the reported unrestricted income incorrectly included <u>unrealized</u> income, and did not take into account <u>realized</u> losses. As a result, these offsets were reduced to eliminate the unrealized income, and to properly include the realized losses.								
Regulations: 10 NYCRR Sections 86-2.17(a) and 86-2.20(c), PRM-1 Section 202.2								
	Invest. Income	003	(32,095)	91.65%	(29,415)			
	Invest. Income	003	(29,401)	91.24%			(26,825)	

JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>DESCRIPTION</u>	<u>COST</u>	<u>DISALLOWED</u>	<u>TRACE-</u>	<u>RATE PERIODS</u>		
					<u>CTR.</u>	<u>(ALLOWED)</u>	<u>BACK %</u>
4. DISALLOWANCE OF VEHICLE DEPRECIATION							
Movable equipment depreciation was reported on a vehicle the executive used for personal purposes. Such payments represent additional compensation to the executive and are allowable only in the base period operating component of the rate. Only documented nursing home business use is allowable in the property component. Therefore, this vehicle depreciation expense was disallowed from property expense. Regulations: 10 NYCRR Section 86-2.17(a)&(d), RHCFA Accounting and Reporting Manual	ME Depr.	002	2,351	91.65%		2,155	-
5. DISALLOWANCE OF DEPRECIATION EXPENSE PRIOR AUDIT ADJUSTMENTS							
Certain asset costs were disallowed in prior audits (#97-M04-1010, #04-M04-1010, & #06-7771) for various reasons. Accordingly, the depreciation expense applicable to these costs was disallowed. Regulations: 10 NYCRR Section 86-2.17 (a)&(d), RHCFA Accounting and Reporting Manual	Bldg. Depr.	001	34,384	91.65%		31,513	
	Bldg. Depr.	001	34,287	91.24%			31,283
	ME Depr.	002	4,663	91.65%		4,274	
	ME Depr.	002	2,977	91.24%			2,716
6. DISALLOWANCE OF EXCESS DEPRECIATION							
The Facility reported depreciation expense on certain assets that were already fully reimbursed by the Medicaid program. The inclusion of this depreciation expense results in the Facility being over-reimbursed for these assets. Since these excess depreciation expenses were not properly chargeable to patient care, they were disallowed. Regulations: 10 NYCRR Section 86-2.17(a)	Bldg. Depr.	001	120,494	91.65%		110,433	
	Bldg. Depr.	001	3,433	91.24%			3,132
	ME Depr.	002	6,511	91.65%		5,967	
	ME Depr.	002	4,270	91.24%			3,896

JEWISH HOME AND INFIRMARY OF ROCHESTER NY, INC. - AUDIT #12-3245
RATE PERIODS JANUARY 1, 2007 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	RATE PERIODS	
					2007	2008
7. RECLASSIFICATION OF ADULT DAY CARE						
DEPRECIATION EXPENSE						
Certain asset costs were directly assigned (100%) to the adult day care (ADC) program in prior audits (#97-M04-1010, #04-M04-1010, & #06-7771). The Facility included depreciation on these assets in reported skilled nursing facility (SNF) depreciation. Therefore, this depreciation was disallowed from the SNF's property expenses. (NOTE: A corresponding allowance was <u>not</u> made to the ADC's property expenses because the Facility's ADC rates were held to a ceiling limitation and would not be impacted.)	Bldg. Depr.	001	47,946	91.65%	43,943	
Regulations: 10 NYCRR Section 86-2.17 (a)&(d), 10 NYCRR Section 456.2.	Bldg. Depr.	001	47,946	91.24%		43,746
8. RENTAL INCOME RECOVERY						
The Facility received income from non-patient care related activities. However, reported property expenses were not accordingly reduced to reflect these non-patient care activities. As a result, property expenses were reduced by the amounts that were allocable to the non-patient care activities.	Inc. Offset	003	3,541	100.00%	3,541	
Regulation 10 NYCRR Section 86-2.18	Inc. Offset	003	3,287	100.00%		3,287
Property Expense Disallowances/(Allowances)					\$ 184,364	\$ 72,922
TOTAL AUDITED PROPERTY EXPENSE					\$ 1,739,595	\$ 1,701,819