STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL
584 Delaware Ave, 2nd Floor
Buffalo, New York 14202

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

October 31, 2012

[redacted]
560 Delaware Avenue
Buffalo, New York 14202-1204

Re: North Gate Health Care Facility
Medicaid Rate Audit #08-1982
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 North Gate Health Care Facility's (the "Facility") Medicaid rates for the rate period March 1, 2003 through December 31, 2007. 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 May 14, 2012 and the Amendment Letter to Draft Audit Report dated June 25, 2012, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A); however, consideration of your comments resulted in no reduction to the total Medicaid overpayment shown in the draft audit report. 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 $790,783. However, this audit also processed Bureau of Long Term Care appeals that resulted in an amount due the Facility of $18,122. Consequently, based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is $772,661. 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.

The overpayment does not reflect the impact on rates subsequent to 2007 that utilized the March 1, 2003 through February 29, 2004 base period for operating expense. Any overpayment resulting from operating expense disallowances in the March 1, 2003 through February 29, 2004 base period report for rates subsequent to 2007 will be addressed in the future.

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:

New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #08-1982
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 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
Bureau of Rate Audit
Office of the Medicaid Inspector General

cc:
Attachments:
Attachment A - Facility Draft Report Comments and OMIG Response
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 - Correction of Input Price Adjustment Factor (IPAF)
EXHIBIT VI - Return on and of Equity Disallowances/(Allowances)
EXHIBIT VII - Return on Average Equity Disallowances/(Allowances)
EXHIBIT VIII - Correction of Patient Days

NEW YORK STATE
OFFICE OF THE MEDICAID INSPECTOR GENERAL
REMITTANCE ADVICE

NAME AND ADDRESS OF AUDITEE

North Gate Health Care Facility
7264 Nash Road
N. Tonawanda, New York 14120

NPI #: [redacted]
PROVIDER #: [redacted]

AUDIT #08-1982

AUDIT TYPE
[ ] PROVIDER
[X] RATE
[ ] PART B
[ ] OTHER:

AMOUNT DUE: $772,661

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 #08-1982
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

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT

RATE PERIOD	ISSUED PART B & D NON-ELIGIBLE RATES*	FINAL PART B & D NON-ELIGIBLE RATES	RATE DECREASE (INCREASE)	MEDICAID DAYS	MEDICAID OVERPAYMENT
03/01/03 - 05/31/03	$155.02	$150.33	$4.69	10,525	$ 49,362
06/01/03 - 08/31/03	155.47	150.82	4.65	9,971	46,365
09/01/03 - 11/30/03	154.86	150.18	4.68	10,401	48,677
12/01/03 - 12/31/03	154.29	149.62	4.67	3,518	16,429
01/01/04 - 02/29/04	159.29	154.24	5.05	6,734	34,007
03/01/04 - 03/31/04	160.44	155.39	5.05	3,452	17,433
04/01/04 - 05/31/04	160.44	155.39	5.05	7,199	36,355
06/01/04 - 08/31/04	162.11	157.05	5.06	10,990	55,609
09/01/04 - 11/30/04	161.98	156.93	5.05	11,097	56,040
12/01/04 - 12/31/04	160.92	155.87	5.05	3,631	18,337
01/01/05 - 02/28/05	165.83	160.79	5.04	6,458	32,548
03/01/05 - 05/31/05	165.43	160.39	5.04	9,857	49,679
06/01/05 - 06/30/05	163.91	158.87	5.04	3,392	17,096
07/01/05 - 08/31/05	163.99	158.95	5.04	7,256	36,570
09/01/05 - 11/30/05	166.32	161.30	5.02	11,094	55,692
12/01/05 - 12/31/05	163.79	158.78	5.01	3,822	19,148
01/01/06 - 02/28/06	170.51	164.69	5.82	7,208	41,951
03/01/06 - 03/31/06	171.85	166.02	5.83	3,719	21,682
04/01/06 - 05/31/06	171.50	165.68	5.82	7,293	42,445
06/01/06 - 08/31/06	171.69	165.87	5.82	10,632	61,878
09/01/06 - 11/30/06	172.73	166.91	5.82	10,771	62,687
12/01/06 - 12/31/06	170.57	164.75	5.82	3,769	21,936
01/01/07 - 03/31/07	165.09	166.60	(1.51)	11,231	(16,959)
04/01/07 - 06/30/07	164.20	165.72	(1.52)	11,395	(17,320)
07/01/07 - 08/31/07	160.37	161.89	(1.52)	7,905	(12,016)
09/01/07 - 12/31/07	160.37	161.89	(1.52)	15,112	(22,970)
TOTAL MEDICAID OVERPAYMENT					**$ 772,661**

* Any differences between these rates and the rates listed in Exhibit II of this 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 $18,122.

EXHIBIT II

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 59 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.

RATE PERIOD	Issued Medicare Part B & D Non-Eligible Rates *
03/01/03 - 05/31/03	$155.02
06/01/03 - 08/31/03	155.47
09/01/03 - 11/30/03	154.86
12/01/03 - 12/31/03	154.29
01/01/04 - 02/29/04	159.29
03/01/04 - 03/31/04	160.44
04/01/04 - 05/31/04	160.44
06/01/04 - 08/31/04	162.11
09/01/04 - 11/30/04	161.98
12/01/04 - 12/31/04	160.92
01/01/05 - 02/28/05	165.83
03/01/05 - 05/31/05	165.43
06/01/05 - 06/30/05	163.91
07/01/05 - 08/31/05	163.99
09/01/05 - 11/30/05	166.32
12/01/05 - 12/31/05	163.79
01/01/06 - 02/28/06	170.51
03/01/06 - 03/31/06	171.85
04/01/06 - 05/31/06	171.50
06/01/06 - 08/31/06	171.69
09/01/06 - 11/30/06	172.73
12/01/06 - 12/31/06	170.57
01/01/07 - 03/31/07	165.09
04/01/07 - 06/30/07	164.20
07/01/07 - 08/31/07	160.37
09/01/07 - 12/31/07	160.37

* 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.

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP. 03/01/03-12/31/06	NON-COMP. 01/01/07-12/31/07
Operating Expense Allowed per HE-12B					$ 7,318,257	$ 3,398,306	$ 774,194	$ 536,853
Less Disallowances/(Allowances):								
1. OVERSTATED REAL ESTATE TAXES								
The Facility received reimbursement for LLC Interest Transfer Tax related to the ownership transfer with real estate taxes in the non-comparable component. Costs created by the sale of a residential health care facility are not allowable. Therefore, the costs were disallowed. This disallowance only affected rates through the end of rate year 2006 because of a change in the handling of real estate taxes in the Bureau of Long Term Care Reimbursement (BLTCR) rate methodology. The cost was properly handled in the 2007 rate year. **Regulations: 10 NYCRR Sections 86-2.17(a) & (k)**	RE Taxes	106	2,296	99.59%			2,287	
2. DISALLOWED LABORATORY AND RADIOLOGY EXPENSE								
Effective April 1, 2001, the Centers for Medicare and Medicaid Services (CMS) policy for consolidated billing required that nursing facilities bill and receive reimbursement under Medicare Part A for the radiology and laboratory "technical component" portion of charges. The actual radiology and laboratory service provider then bills the nursing facility to receive its reimbursement of the technical component. Consequently, inclusion of any such "expenses" in the Medicaid rate is inappropriate and would duplicate reimbursement. The "expense" is merely a pass through of income received by the nursing facility to the service provider. Additionally, the above transactions do not pertain to Medicaid patients in any way. Since the "expense" does not pertain to Medicaid patients, it is not reimbursable under the Medicaid program. **Regulations: 10 NYCRR Section 86-2.17(d), HCFA Pub. 60B, Transmittal B-00-67 dated Nov. 27, 2000, Subject: Consolidated Billing for SNF Residents**	Lab Services	031	34,086	100.00%			34,086	34,086
	EKG	032	4,106	100.00%			4,106	4,106
	Radiology	034	19,540	100.00%			19,540	19,540
3. RECLASSIFICATION OF INHALATION THERAPY EXPENSES								
The Facility reported portable liquid oxygen in the inhalation therapy cost center under the non-comparable component. These costs should be reported in the central service supply cost center under the direct component. Therefore, these costs were reclassified from the non-comparable component to the direct component. **Regulations: 10 NYCRR Sections 86-2.17(a), 458.5, 446.40, and PRM-1 Section 2304**	Inhalation Ther.	035	604	100.00%			604	604
	Central Svc.	043	(604)	100.00%	(604)			

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP. 03/01/03-12/31/06	NON-COMP. 01/01/07-12/31/07
4. RECLASSED WORKERS' COMPENSATION COORDINATOR'S SALARY								
The Facility reported expenses associated with the Workers' Compensation Coordinator's salary as an other employee benefit in fringe benefits. This salary is required to be reported in the Administrative Services cost center (005). Consequently, the salary expense was reclassified to the Administrative Services cost center. **Regulations: 10 NYCRR Sections 86-2.17(a), 455.5, 455.13, and PRM-1 Section 2144**	Nursing Admin.	013	651	99.72%	649			
	Activities	014	269	99.72%	268			
	Social Services	021	160	99.71%	160			
	Physical Therapy	039	330	100.00%	330			
	Occup. Ther.	040	218	100.00%	218			
	RHCF	051	5,138	100.00%	5,138			
	Respite Care	075	14	0.00%				
	Fiscal Services	004	545	99.71%		543		
	Admin. Services	005	272	99.71%		271		
	Plant Operations	006	454	99.59%		452		
	Laundry	009	166	99.72%		166		
	Housekeeping	010	254	99.72%		253		
	Patient Food	011	585	99.71%		583		
	Cafeteria	012	5	99.66%		5		
	Medical Records	019	261	99.72%		260		
	Admin. Services	005	(9,354)	99.71%		(9,327)		
	Barber and Beauty	067	31	0.00%		-		
5. CORRECTION OF BLTCR ADJUSTMENT FOR REAL ESTATE TAXES								
A BLTCR Schedule I adjustment allowed real estate taxes and utility expenses from a related company in the base year non-comparable component. However, beginning in rate year 2007, real estate taxes are removed from non-comparable and allowed in the capital component (based on a two-year lag). In rate year 2007, BLTCR removed all of the related company expenses when only the real estate taxes should have been removed. Therefore, to correct this Schedule I adjustment, an allowance was made for the related company utility expenses to the non-comparable component. **Regulation: 10 NYCRR Section 86.2-10(f)**	Utilities	106	(7,697)	99.59%				(7,665)
6. DUPLICATE REIMBURSEMENT OF SALES TAX EXPENSE AND AUTO INSURANCE								
a. Beginning with the base period, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. However, 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 operating expense for rates effective March 1, 2003 and forward. **Regulations: 10 NYCRR Sections 86-2.17(a) & (d)**	Admin. Services	005	74,303	99.71%		74,088		

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP. 03/01/03-12/31/06	NON-COMP. 01/01/07-12/31/07
6. DUPLICATE REIMBURSEMENT OF SALES TAX EXPENSE AND AUTO INSURANCE (CONT.)								
b. Beginning with the base period, the Facility reported and was reimbursed for all auto insurance in the property portion of the rate. However, the auto insurance associated with operating expense was included in the appropriate operating expense category and reimbursed in the operating per diem. By reporting all auto insurance in property, the Facility is being reimbursed for auto insurance in both the operating and property per diems. In order to eliminate the duplication, auto insurance was excluded from the base period operating expense for rates effective March 1, 2003 and forward. **Regulations: 10 NYCRR Sections 86-2.17(a) & (d)**	Admin. Services	005	12,373	99.71%		12,337		
7. EXPENSE RECLASSED TO ADMINISTRATIVE SERVICES								
a. The Facility was unable to substantiate that the vehicles used by the administrators and the vehicles used by a related company, The McGuire Group (TMG), were used for business purposes or patient care. Therefore, the depreciation and insurance related to these vehicles were disallowed in the capital component and are reclassified to the indirect component under administrative services as additional compensation to the administrative staff. **Regulations: 10 NYCRR Section 86-2.17(a) and PRM-1 Section 2304**	Admin. Services	005	(12,709)	99.71%		(12,672)		
b. The Facility capitalized the labor costs of internally generating computer software used in the operations of the Facility and related companies. Such costs must be expensed, not capitalized. Therefore, the depreciation expense for these costs was disallowed in the capital component and the total labor costs were reclassified to the indirect component under administrative services as salary expenses in the base year. **Regulations: 10 NYCRR Section 86-2.17(a) and PRM-1 Section 104.17**	Admin. Services	005	(11,285)	99.71%		(11,252)		
c. The Facility was reimbursed for business interruption insurance in the capital component. Business interruption insurance does not relate to the loss of or damage to the Facility's physical property and consequently is only allowable in the operating component. Therefore, the base year business interruption insurance expense was disallowed from the capital component and reclassified to the operating component under administrative services. See Exhibit IV Adjustment 11 for the related capital audit adjustment. **Regulations: 10 NYCRR Sections 86-2.10(g), 86-2.17(a) & (d),**	Admin. Services	005	(801)	99.71%		(799)		

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	OPERATING EXPENSE COMPONENT DIRECT	INDIRECT	NON-COMP. 03/01/03-12/31/06	NON-COMP. 01/01/07-12/31/07
8. EXPENSES NOT RELATED TO NURSING HOME PATIENT CARE								
According to PRM-1 Section 2102.3, "costs not related to patient care are costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Costs which are not necessary include costs which usually are not common or accepted occurrences in the field of the provider's activity."	Plant Operations	006	30,618	99.59%		30,492		
In accordance with 10 NYCRR Section 86-2.17(a), "To be considered as allowable in determining reimbursement rates, costs shall be properly chargeable to necessary patient care. Except as otherwise provided in this Subpart, or in accordance with specific determination by the Commissioner, allowable costs shall be determined by the application of the principles of reimbursement developed for determining payments under title XVIII of the Federal Social Security Act (Medicare) program".								
Additionally, in accordance with 10 NYCRR Section 86-2.17(f), "Allowable costs shall not include costs not properly related to patient care or treatment which principally afford diversion, entertainment or amusement to owners, operators or employees of residential health care facilities."								
The facility included the cost of antique car restoration expenses including repairs, paint, and mechanical parts for a 1955 Chevy pick up truck. Related auto insurance cost was disallowed since such expenses are not related or properly chargeable to nursing home resident care. **Regulations: 10 NYCRR Sections 86-2.17(a) & (f), PRM-1 Section 2102.3**								
9. CAPITAL ITEM INCORRECTLY EXPENSED								
The provider incorrectly expensed building awning and related sales tax costs that should have been capitalized as property costs. These expenditures should have been capitalized with a useful life of 15 years in accordance with generally accepted accounting principles, the guidelines and definitions included in the RHCF Accounting and Reporting Manual, and the 1998 Estimated Useful Lives Guidelines of Depreciable Hospital Assets. Consequently, the expense applicable to these costs was disallowed from indirect operating costs. **Regulations: 10 NYCRR Sections 451.230 & 86-2.4**	Plant Operations	006	7,650	99.59%		7,619		
Total Disallowances/(Allowances)					$ 6,159	$ 93,019	$ 60,623	$ 50,671
TOTAL AUDITED OPERATING EXPENSE BY COMPONENT					**$ 7,312,098**	**$ 3,305,287**	**$ 713,571**	**$ 486,182**

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS 2003	2004	2005	2006	2007
Property Expense Allowed per HE-12B					$ 1,299,896	$ 1,321,718	$ 1,309,796	$ 1,351,897	$ 947,693
Less Disallowances/(Allowances):									
Disallowances/(Allowances) Related to Processing of Bureau of Long Term Care (BLTCR) Open Appeals									
1. MOVABLE EQUIPMENT DEPRECIATION EXPENSE ALLOWANCE									
The Facility appealed to have movable equipment depreciation expense based on the new base period rather than a two year lag as was done in the original 2003 through 2005 rates. Based on a confirmation that the Bureau of Long Term Care Reimbursement (BLTCR) agreed with the Facility's position, the movable equipment depreciation expense was adjusted to reflect the Facility's appeal request. The base period costs should be used to establish allowable capital component reimbursement for the 2003, 2004, and 2005 rates. **This allowance was contingent upon the Facility's written withdrawal of this particular item from its outstanding appeal #9955 filed with the Bureau of Long Term Care Reimbursement. The Facility withdrew the item from the appeal in correspondence to BLTCR dated May 16, 2012.**	ME Depr.	002	(16,249)	99.86%	(16,226)				
	ME Depr.	002	(7,138)	99.86%		(7,128)			
	ME Depr.	002	(150)	99.86%			(150)		
Regulations: 10 NYCRR Sections 86-2.17(a) & (d), 86-2.22, PRM-1 Sections 2300 & 2304									
2. MOVABLE EQUIPMENT RENTAL EXPENSE ALLOWANCE									
The Facility appealed to have additional movable equipment rentals, which were erroneously classified as supplies and reported on Exhibit H in cost center 051, reclassified to the property component of the audit as movable equipment rental expense. The OMIG has determined the rental expense to be proper. Consequently, an allowance was made to reflect the amounts supported by the Facility's records. **This allowance was contingent upon the Facility's written withdrawal of this particular item from its outstanding appeal #10967 filed with the Bureau of Long Term Care Reimbursement. The Facility withdrew the item from the appeal in correspondence to BLTCR dated May 16, 2012.**	Rent J	051	(8,530)	100.00%					(8,530)
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304									
BLTCR Open Appeals Disallwoances/(Allowances)					$ (16,226)	$ (7,128)	$ (150)	$ -	$ (8,530)
Subtotal Property Expense					$ 1,316,122	$ 1,328,846	$ 1,309,946	$ 1,351,897	$ 956,223
Other OMIG Audit Disallowances/(Allowances)									
3. MOVABLE EQUIPMENT DEPRECIATION EXPENSE ADJUSTMENTS									
a. Movable equipment costs relating to resident TVs were disallowed in previous audits (#94-E04-1227 and #06-1078) of the Facility. The current movable equipment depreciation related to these cost was disallowed.	ME Depr.	002	1,969	99.86%	1,966	1,966	1,966		
	ME Depr.	002	879	100.00%				879	
	ME Depr.	002	222	100.00%					222
Regulations: 10 NYCRR Sections 86-2.17(a) & (d) & 86-2.19(a), PRM-1 Section 2106									
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. Movable equipment depreciation on vehicles that were used exclusively by Administrators was disallowed since this expense was not directly related to patient care.	ME Depr.	002	6,662	100.00%					6,662
	Other	000	4,555	100.00%				4,555	
Regulations: 10 NYCRR Section 86-2.17(a) and PRM-1 Sections 2102.3 & 2105.9									

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS 2003	2004	2005	2006	2007
3. MOVABLE EQUIPMENT DEPRECIATION EXPENSE ADJUSTMENTS (CONT.)									
c. The Facility capitalized the labor costs of internally generating computer software used in the operations of the Facility and related companies. According to reimbursement regulations, these costs must be expensed, not capitalized. Therefore, the depreciation expense for these costs was disallowed in the capital component, and the total labor costs were reclassified to the indirect component under administrative services as salary expenses in the base year. In rate years 2003 and 2004, the depreciation for the capitalized labor was removed by BLTCR rate setting methodology described in adjustment #1 above. **Regulations: 10 NYCRR Section 86-2.17(a) and PRM-1 Section 104.17**	ME Depr.	002	626	99.86%	625	625	625		
	ME Depr.	002	1,530	100.00%				1,530	
	ME Depr.	002	2,872	100.00%					2,872
d. Providers receiving payment 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. The cost information must be current, accurate, and in sufficient detail. Audited movable equipment depreciation varied from the expense allowed in the promulgated rates resulting in a disallowance. **Regulations: 10 NYCRR Sections 86-2.17(a) & (d), & 86-2.22 and PRM-1 Sections 2300 & 2304**	Other	000	677	100.00%				677	
e. The provider incorrectly expensed a building awning and related sales tax costs that should have been capitalized as property costs. These expenditures should have been capitalized with a useful life of 15 years in accordance with generally accepted accounting principles, the guidelines and definitions included in the RHCF Accounting and Reporting Manual, and the 1998 Estimated Useful Lives Guidelines of Depreciable Hospital Assets. Accordingly, the expense applicable to these costs was disallowed as part of the base year indirect operating costs and appropriate depreciation expense was allowed. Refer to Exhibit III adjustment #9. **Regulations: 10 NYCRR Sections 451.168, 451.181, & 451.230, & 86-2.4**	ME Depr.	002	(367)	99.86%	(366)				
	ME Depr.	002	(551)	99.86%		(550)	(550)		
	ME Depr.	002	(551)	100.00%				(551)	(551)
f. Movable equipment costs relating to telephones and telephone equipment were disallowed in prior audits (#94-E04-1227 and #06-1078). The current movable equipment depreciation related to this equipment was disallowed. **Regulations: 10 NYCRR Sections 86-2.17(d) and 86-2.19(a) and PRM-1 Sections 2300 & 2304**	ME Depr.	002	44	99.86%	44	44	44		
	Other	000	44	100.00%				44	
g. Related company movable equipment depreciation in rate year 2006 was erroneously not included in the promulgated rates. Consequently, an allowance was necessary. **Regulation: 10 NYCRR Section 86-2.22(a)**	Other	000	(3,152)	100.00%				(3,152)	
h. The Facility included amounts in movable equipment depreciation expense for an antique car and other vehicles. The antique car expenses were related to the acquisition, restoration, and operation of the vehicle. The Facility could not substantiate that the antique car and other vehicles were related to business use as opposed to personal use. Since the relationship to patient care could not be substantiated and for reasons noted in operating adjustment #8, the expenses were disallowed. **Regulations: 10 NYCRR Sections 86-2.17(a) & 86-2.17(d), and PRM-1 Sections 2102.3, 2105.9 & 2304**	ME Depr.	002	2,951	99.86%	2,947	2,947	2,947		
	ME Depr.	002	5,212	100.00%				5,212	
	ME Depr.	002	7,208	100.00%					7,208

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS 2003	2004	2005	2006	2007
4. RETURN ON AND RETURN OF EQUITY ADJUSTMENTS									
The real property historical costs and cumulative real property reimbursement that were used to calculate the return on equity and the return of equity were adjusted to reflect audited amounts based on previous audits (#94-E04-1227 and #06-1078) of the Facility. In addition, the recognized mortgage was adjusted to reflect the original real property mortgage principal balance. As a result, the returns on and of real property equity were adjusted accordingly. See Exhibit VI for the calculation of the audited return on and of real property equity. **Regulations: 10 NYCRR Sections 86-2.17(d) & 86-2.21**	Ret. On Equity	001	101,223	99.59%	100,808				
	Ret. Of Equity	001	106,371	99.59%	105,935				
	Ret. On Equity	001	99,725	99.59%		99,316			
	Ret. Of Equity	001	104,671	99.59%		104,242			
	Ret. On Equity	001	90,672	99.59%			99,300		
	Ret. Of Equity	001	104,672	99.59%			104,243		
	Ret. On Equity	001	81,897	100.00%				81,897	
	Ret. Of Equity	001	111,537	100.00%				111,537	
	Ret. On Equity	001	(60,588)	100.00%					(60,588)
	Ret. Of Equity	001	(79,774)	100.00%					(79,774)
5. MORTGAGE INTEREST EXPENSE ADJUSTMENTS									
According to the Bureau of Long Term Care Reimbursement (BLTCR) capital cost methodology, mortgage interest expense is reimbursed on a rate year basis. Audited rate year interest expense varied from the mortgage interest allowed in the promulgated rates resulting in adjustments. **Regulations: 10 NYCRR Sections 86-2.17(d), 86-2.20(a), & 86-2.21(a)**	Mort. Int.	001	3,557	99.59%	3,542				
	Mort. Int.	001	1,943	99.59%		1,935			
	Mort. Int.	001	2,110	99.59%			2,101		
	Mort. Int.	001	(39)	100.00%				(39)	
	Mort. Int.	001	901	100.00%					901
6. MOVABLE EQUIPMENT INTEREST EXPENSE DISALLOWANCE									
The Bureau of Long Term Care Reimbursement (BLTCR) reimbursed the Facility's movable equipment interest expense on a rate year basis in the promulgated rates. Audited rate year interest expense varied from the movable equipment interest allowed in the promulgated rates resulting in an allowance. **Regulation: 10 NYCRR Section 86-2.20(a)**	ME Int.	001	397	99.59%	395				
	ME Int.	001	217	99.59%		216			
	ME Int.	001	234	99.59%			233		
	ME Int.	001	100	100.00%					100
7. MOVABLE EQUIPMENT INSURANCE EXPENSE ADJUSTMENTS									
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. Auto insurance expense on vehicles that were used exclusively by Administrators and for the antique car was disallowed since this expense was not directly related to patient care. For rate year 2005, there was an additional correction of a BLTCR error that resulted in an overall allowance of $229. **Regulations: 10 NYCRR Section 86-2.17(a), and PRM-1 Sections 2102.3 & 2105.9**	Insurance	005	9,361	99.71%	9,334	9,334			
	Insurance	005	(229)	99.71%			(228)		
	Insurance	005	7,468	100.00%				7,468	
	Insurance	005	13,186	100.00%					13,186

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS 2003	2004	2005	2006	2007
8. RETURN ON AVERAGE EQUITY DISALLOWANCE									
A proprietary residential health care facility is entitled to a reasonable return on average equity for equity associated with necessary and proper patient care activities. The returns in the promulgated rates were based on average equity that included an amount for goodwill and intangible assets. The Commissioner has determined that goodwill and intangible assets are not reimbursable for Medicaid. Consequently, the average equity calculation was recomputed based on the elimination of the goodwill and intangible assets, which resulted in disallowances to the return on average equity. See Exhibit VII for the calculation of the audited return on average equity.	Ret. On Equity	001	(21,386)	99.59%	(21,298)				
	Ret. On Equity	001	(11,621)	99.59%		(11,573)			
	Ret. On Equity	001	(19,558)	99.59%			(19,478)		
	Ret. On Equity	001	(46,837)	100.00%				(46,837)	
	Ret. On Equity	001	(90,217)	100.00%					(90,217)
Regulations: 10 NYCRR Sections 86-2.17(d) & 86-2.28									
9. MORTGAGE AMORTIZATION ADJUSTMENTS									
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 payments varied from the payments allowed in the rate resulting in adjustments.	Mort. Amort.	001	(3,558)	99.59%	(3,543)				
	Mort. Amort.	001	(1,943)	99.59%		(1,935)			
	Mort. Amort.	001	(2,109)	99.59%			(2,100)		
	Mort. Amort.	001	34,611	100.00%				34,611	
	Mort. Amort.	001	(63,891)	100.00%					(63,891)
Regulations: 10 NYCRR Sections 86-2.17(a)&(d), 86-2.21, PRM-1 Sections 2300 & 2304									
10. SALES TAX EXPENSE ADJUSTMENTS									
a. 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. The audit disclosed that reported sales tax expense included sales tax on parts for a restoration of a 1955 Chevy Pick-Up Truck and 1951 Ford Pick-Up Truck. Such expenses are not related to patient care. Therefore, the expenses were disallowed.	Sales Tax	005	2,934	99.71%	2,925	2,925	2,925		
Regulations: 10 NYCRR Sections 86-2.17(a), 86-2.17(g) and PRM-1 Section 2102.3									
b. In rate year 2006, the Facility did not receive allowable sales tax expense for a related company. An allowance was made for the sales tax allocated from the related company.	Sales Tax	005	(4,410)	100.00%				(4,410)	
Regulations: 10 NYCRR Sections 86-2.17(a), 86-2.26(b) and PRM-1 Section 2122									
11. PROPERTY INSURANCE DISALLOWANCE									
The Facility was reimbursed for business interruption insurance in the capital component. Business interruption insurance does not relate to the loss of or damage to the Facility's physical property and consequently is only allowable in the operating component. Therefore, the base year business interruption insurance expense was disallowed from the capital component and reclassified to the operating component under administrative services. In addition, property insurance expenses were adjusted to agree with the paid insurance premiums. See Exhibit III Adjustment #7c for the related operating audit adjustment.	Prop. Insur.	005	801	99.71%	799	799	799		
	Prop. Insur.	005	669	100.00%				669	
	Prop. Insur.	005	680	100.00%					680
Regulations: 10 NYCRR Sections 86-2.7, 86-2.17(a) & (d), 86-2.10(g), and PRM-1 Sections 2300, 2304, & 2161, and RHCF-4 Cost Report Instructions									
12. REAL PROPERTY REIMBURSEMENT DISALLOWANCE									
In rate year 2006, non-trended other expense included the rent of a related company building. Since real property reimbursement consists of principle amortization, real property interest expense, and a return on and of equity, when applicable, the rent of the related company was disallowed.	Other	000	27,368	100.00%				27,368	
Regulations: 10 NYCRR Sections 86-2.17(d) & 86-2.21									

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS 2003	2004	2005	2006	2007
13. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE									
The Facility was reimbursed for working capital interest in excess of the actual amount incurred. The excess amounts were disallowed beginning in rate year 2005.	WCI Expense	005	13,004	99.71%			12,966		
Regulations: 10 NYCRR Sections 86-2.17(d) & (i), 86-2.20(a) & (d)	WCI Expense	005	25,451	100.00%				25,451	
14. DISALLOWED BARBER AND BEAUTY EXPENSES									
Property expenses associated with barber and beauty services were included in reimbursed expense. Barber and beauty costs are not reimbursable under the Medicaid program based on the regulations shown below. Consequently, the property costs associated with barber and beauty services were disallowed.	Mort.Int.	001	710	99.59%	707				
	Prop. Insur.	005	60	99.71%	60				
	Ret. On Equity	001	852	99.59%	849				
	Ret. Of Equity	001	895	99.59%	891				
Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2302.4 & 2302.7, and the Medicare Benefit Policy Manual, Chapter 16-80	Mort. Amort.	001	1,179	99.59%	1,174				
	Mort.Int.	001	618	99.59%		615			
	Prop. Insur.	005	60	99.71%		60			
	Ret. On Equity	001	897	99.59%		893			
	Ret. Of Equity	001	942	99.59%		938			
	Mort. Amort.	001	1,271	99.59%		1,266			
	Mort.Int.	001	508	99.59%			506		
	Prop. Insur.	005	60	99.71%			60		
	Ret. On Equity	001	838	99.59%			835		
	Ret. Of Equity	001	967	99.59%			963		
	Mort. Amort.	001	1,380	99.59%			1,374		
	Mort.Int.	001	445	100.00%				445	
	Prop. Insur.	005	74	100.00%				74	
	Ret. On Equity	001	749	100.00%				749	
	Ret. Of Equity	001	1,021	100.00%				1,021	
	Mort. Amort.	001	1,498	100.00%				1,498	
	Mort.Int.	003	299	100.00%					299
	Prop. Insur.	005	79	100.00%					79
	Ret. On Equity	003	833	100.00%					833
	Ret. Of Equity	001	1,096	100.00%					1,096
	Mort. Amort.	001	517	100.00%					517
Total Disallowances/(Allowances)					$ 207,794	$ 214,063	$ 200,531	$ 250,696	$ (260,366)
TOTAL AUDITED PROPERTY EXPENSE					**$ 1,108,328**	**$ 1,114,783**	**$ 1,109,415**	**$ 1,101,201**	**$ 1,216,589**

EXHIBIT V

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
CORRECTION OF INPUT PRICE ADJUSTMENT FACTOR (IPAF) DATA

The March 1, 2003 through December 31, 2007 operating rates incorporate an Input Price Adjustment Factor (IPAF) which is based on the March 1, 2003, through February 29, 2004 base period nursing salaries (RN, LPN and Aides), fringe benefits, and hours paid. The audit disclosed that the Facility included the workers' compensation coordinator's cost as an employee fringe benefit in the amounts used for the IPAF calculation. Audit adjustments were necessary to eliminate the workers' compensation coordinator's cost from the nursing and aide data included in the IPAF calculation.

Regulations: 10 NYCRR Sections 455.5 and 86-2.18

Note: The dollar amounts shown below are prior to the application of the "deflator" used in each rate year's IPAF calculation.

CLASSIFICATION	PER RHCF-4	PER AUDIT	DECREASE (INCREASE)
RN Fringes	164,766	163,801	965
LPN Fringes	280,338	278,696	1,642
Aides Fringes	431,776	429,245	2,531

EXHIBIT VI

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
RETURN ON AND RETURN OF REAL PROPERTY EQUITY DISALLOWANCES

	RATE PERIODS				
Return of Equity Calculation	2003	2004	2005	2006	2007
Real Property Historical Cost per HE-12B	$ 8,184,213	$ 8,282,680	$ 8,381,548	$ 8,584,347	$ 8,853,427
Audit Disallowances/(Allowances)	67,955	836			
Audited Historical Cost	$ 8,116,258	$ 8,281,844	$ 8,381,548	$ 8,584,347	$ 8,853,427
Less: Recognized Mortgage Principal	4,139,080	4,139,080	4,139,080	4,139,080	4,139,080
Less: Accumulated Reimbursement	-	165,716	375,034	589,891	816,678
Audited Net Equity	$ 3,977,178	$ 3,977,048	$ 3,867,434	$ 3,855,376	$ 3,897,669
Remaining Useful Life	20	19	18	17	16
Audited Return of Equity	$ 198,859	$ 209,318	$ 214,857	$ 226,787	$ 243,604
Promulgated Return of Equity	305,230	313,989	319,529	338,324	163,830
Disallowance/(Allowance)	$ 106,371	$ 104,671	$ 104,672	$ 111,537	$ (79,774)
Return on Equity Calculation					
Audited Net Equity	$ 3,977,178	$ 3,977,048	$ 3,867,434	$ 3,855,376	$ 3,897,669
Less: ½ Current Return of Equity	99,430	104,659	107,429	113,394	121,802
Audited Net Investment	$ 3,877,748	$ 3,872,389	$ 3,760,005	$ 3,741,982	$ 3,775,867
Rate of Return	4.88%	5.15%	4.95%	4.45%	4.90%
Audited Return on Equity	$ 189,234	$ 199,428	$ 186,120	$ 166,518	$ 185,017
Promulgated Return on Equity	290,457	299,153	276,792	248,415	124,429
Disallowance/(Allowance)	$ 101,223	$ 99,725	$ 90,672	$ 81,897	$ (60,588)

EXHIBIT VII

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
RETURN ON AVERAGE EQUITY DISALLOWANCES

Return on Average Equity	RATE YEARS 2003	2004	2005	2006	2007
Average Equity per HE-12B	$ 6,514,113	$ 6,514,113	$ 6,514,113	$ 5,054,498	$ (814,214)
Audit Adjustments:					
• Adjust Promulgated RHCF-4, Sch 13 Amts. to Reported RHCF-4, Sch 13 Amts.					(3,216,239)
• Duplication of Due to/from Parent/Affiliate	502,961	502,961	502,961	(225,308)	(3,244,087)
• Remove Goodwill	215,330	215,330	215,330	215,330	
• NBV of Non-Moveable Equipment (prior audit)	39,870	39,870	39,870	34,747	28,642
• NBV of Moveable Equipment (prior audit)	1,038	1,038	1,038	447	225
• NBV of Moveable Equipment (current audit)	26,732	26,732	26,732	41,623	61,944
Audited Average Equity	$ 5,728,182	$ 5,728,182	$ 5,728,182	$ 4,987,659	$ 5,555,301
Less: Audited Net Investment	3,877,748	3,872,389	3,760,005	3,741,982	3,775,867
Audited Remaining Equity	$ 1,850,434	$ 1,855,793	$ 1,968,177	$ 1,245,677	$ 1,779,434
Rate of Return	1.66%	1.01%	1.87%	3.76%	5.07%
Average Equity Return Per Audit	$ 30,717	$ 18,744	$ 36,805	$ 46,837	$ 90,217
Average Equity Return per HE-12B	9,331	7,123	17,247	-	-
Disallowance	$ (21,386)	$ (11,621)	$ (19,558)	$ (46,837)	$ (90,217)

EXHIBIT VIII

NORTH GATE HEALTH CARE CENTER - AUDIT # 08-1982
RATE PERIODS MARCH 1, 2003 THROUGH DECEMBER 31, 2007
CORRECTION OF PATIENT DAYS

The audit of the patient day statistics and the implementation of BLTCR's approved Appeal #9955 dated 1/11/2012 disclosed that the patient days in the promulgated capital cost summary were based on cost reports using the two year lag methodology. The following adjustments were necessary to include the proper days in the rate calculations.

Regulation: 10 NYCRR Section 86-2.8(c)

	RATE PERIODS	
	2003	2004
Patient Days per Promulgated Rate	71,582	71,506
Patient Days per Audit	71,168	71,168
Overstated Patient Days	(414)	(338)