



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

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

October 3, 2013

[REDACTED]
Loretto Health and Rehabilitation Center
700 East Brighton Avenue
Syracuse, New York 13205

Re: Medicaid Rate Audit #08-2222
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 Loretto Health and Rehabilitation Center's (the "Facility") Medicaid rates for the rate period January 1, 2004 through December 31, 2007. In accordance with 18 NYCRR Section 517.6, this report represents the OMIG's final determination on issues raised in the draft audit report.

In response to the draft audit report dated October 17, 2012, you identified specific audit findings with which you disagreed. Your comments have been considered (see Attachment A) and the report has been either revised accordingly and/or amended to address your comments (see Attachment B). Consideration of your comments resulted in an overall reduction of \$860,942 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. Based on the enclosed audited rates calculated by the Bureau of Long Term Care Reimbursement, the Medicaid overpayment currently due is \$1,060,835. 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 December 31, 2007 that utilized the January 1, 2004 through December 31, 2004 base period for operating expense. Any overpayment resulting from operating expense disallowances in the January 1, 2004 through December 31, 2004 base period report for rates subsequent to December 31, 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:

[REDACTED]
New York State Department of Health
Medicaid Financial Management
GNARESP Corning Tower, Room 2739
File #08-2222
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
[REDACTED]

If within 20 days, you fail to make full payment or contact the OMIG to make repayment arrangements, the OMIG will establish a withhold equal to 50% of your Medicaid billings to secure payment and liquidate the overpayment amount, interest and/or penalty, not barring any other remedy allowed by law. The OMIG will provide notice to you no later than 5 days after the withholding of any funds.

In addition, if you receive an adjustment in your favor while you owe funds to the State, such adjustment will be applied against the amount owed.

You have the right to challenge this action and determination by requesting an administrative hearing within sixty (60) days of the date of this notice. You may not request a hearing to raise issues related to rate setting or rate setting methodology. In addition, you may not raise any issue that was raised or could have been raised at a rate appeal with your rate setting agency. You may only request a hearing to challenge specific audit adjustments which you challenged in a response to the draft audit report.

If you wish to request a hearing, the request must be submitted in writing to:

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

Questions regarding the request for a hearing should be directed to 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 [REDACTED] or through email at [REDACTED]. Please refer to audit number 08-2222 in all correspondence.

Sincerely,

[REDACTED]
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachments:

- Attachment A - Facility Draft Report Comments and OMIG Response
- Attachment B - Summary of Changes from Draft Report to Final Report
- 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)

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

LORETTO HEALTH & REHAB.
700 EAST BRIGHTON AVENUE
SYRACUSE, NEW YORK 13205

NPI [REDACTED]
PROVIDER [REDACTED]

AUDIT #08-2222

AMOUNT DUE: \$1,060,835

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 2739
File #08-2222
Albany, New York 12237-0048

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

[REDACTED]
CORRECT PROVIDER NUMBER

LORETTO HEALTH AND REHABILITATION CENTER - AUDIT #08-2222
FACILITY DRAFT 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 for final audit report.

EXHIBIT III COMMENTS

Based on information and documentation provided by the Facility, the following adjustments were eliminated as shown on Attachment B.

Adjustment #6 – Utility Expense Disallowance

Adjustment #7 – Medical Staff Services Expense Disallowance

EXHIBIT IV COMMENTS

Based on information and documentation provided by the Facility, the following adjustments were eliminated as shown on Attachment B.

Adjustment #3 – Property Insurance Disallowance

Adjustment #5 – Auto Insurance Disallowance

Adjustment #6(b) – Equipment Rental Disallowance

LORETTO HEALTH AND REHABILITATION CENTER
SUMMARY OF CHANGES FROM DRAFT REPORT TO FINAL REPORT - AUDIT #08-2222

EXHIBIT III - OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>Rate Period</u>	<u>Draft Disallowance (Allowance)</u>	<u>Change</u>	<u>Final Disallowance (Allowance)</u>
6. UTILITY EXPENSE DISALLOWANCE	Base Period	\$ 876	(876) \$	-
7. MEDICAL STAFF SERVICES DISALLOWANCE	Base Period	641,859	(641,859)	-

EXHIBIT IV - PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>Rate Period</u>	<u>Draft Disallowance (Allowance)</u>	<u>Change</u>	<u>Final Disallowance (Allowance)</u>
3. PROPERTY INSURANCE DISALLOWANCE	2004	17,250	(17,250)	-
	2005	17,250	(17,250)	-
	2006	17,250	(17,250)	-
5. AUTO INSURANCE DISALLOWANCE	2004	12,939	(12,939)	-
	2005	12,939	(12,939)	-
	2006	12,939	(12,939)	-
	2007	3,524	(3,524)	-
6(b). EQUIPMENT RENTAL DISALLOWANCE	2007	24,851	(24,851)	-

LORETTO HEALTH AND REHABILITATION CENTER
RATE PERIODS JANUARY 1, 2004 THROUGH DECEMBER 31, 2007
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>
01/01/04 - 03/31/04	\$191.38	\$189.93	\$1.45	33,088	\$ 47,978
04/01/04 - 06/30/04	196.19	194.74	1.45	34,252	49,665
07/01/04 - 09/30/04	196.44	194.99	1.45	35,501	51,476
10/01/04 - 12/31/04	193.70	192.25	1.45	36,299	52,634
01/01/05 - 03/31/05	195.38	193.89	1.49	34,898	51,998
04/01/05 - 06/30/05	196.11	194.63	1.48	35,445	52,459
07/01/05 - 09/30/05	201.61	200.13	1.48	36,034	53,330
10/01/05 - 12/31/05	199.99	198.50	1.49	37,564	55,970
01/01/06 - 03/31/06	206.00	204.44	1.56	36,328	56,672
04/01/06 - 06/30/06	201.32	199.76	1.56	37,335	58,243
07/01/06 - 09/30/06	203.14	201.58	1.56	38,169	59,544
10/01/06 - 12/31/06	208.52	206.96	1.56	38,703	60,377
01/01/07 - 03/31/07	215.23	212.53	2.70	37,738	101,893
04/01/07 - 06/30/07	214.12	211.43	2.69	38,383	103,250
07/01/07 - 08/31/07	209.68	206.99	2.69	38,547	103,691
09/01/07 - 12/31/07	209.68	206.99	2.69	37,790	101,655
TOTAL MEDICAID OVERPAYMENT					<u>\$ 1,060,835</u>

* 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.

LORETTO HEALTH AND REHABILITATION CENTER
RATE PERIODS JANUARY 1, 2004 THROUGH DECEMBER 31, 2007
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 72 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

<u>RATE PERIOD</u>	Issued Medicare Part B & D <u>Non-Eligible Rates*</u>
01/01/04 - 03/31/04	\$ 191.38
04/01/04 - 06/30/04	196.19
07/01/04 - 09/30/04	196.44
10/01/04 - 12/31/04	193.70
01/01/05 - 03/31/05	195.38
04/01/05 - 06/30/05	196.11
07/01/05 - 09/30/05	201.61
10/01/05 - 12/31/05	199.99
01/01/06 - 03/31/06	206.00
04/01/06 - 06/30/06	201.32
07/01/06 - 09/30/06	203.14
10/01/06 - 12/31/06	208.52
01/01/07 - 03/31/07	215.23
04/01/07 - 06/30/07	214.12
07/01/07 - 08/31/07	209.68
09/01/07 - 12/31/07	209.68

* 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.

LORETTQ HEALTH AND REHABILITATION CENTER
RATE PERIODS JANUARY 1, 2004 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

OPERATING EXPENSE COMPONENT	
DIRECT	INDIRECT
\$ 20,937,749	\$ 11,551,163
\$ 2,545,105	

TRACE- BACK %	DISALLOWED (ALLOWED)	COST CTR.
94.21%	\$ 120,013	005

Operating Expense Allowed per HE-12B
Less Disallowances/(Allowances):

1. GENERAL PROFESSIONAL LIABILITY INSURANCE DISALLOWANCE

Providers 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. The general and professional liability insurance audited amount was less than the amount reported by the Facility. Consequently, the unsubstantiated expense was disallowed.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304

2. DIRECTORS/OFFICERS LIFE INSURANCE DISALLOWANCE

Premiums related to insurance on the lives of owners, officers, key employee where the provider is a direct or indirect beneficiary are not allowable costs. Consequently, a disallowance was necessary.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Section 2130

3. LOSS OF DISPOSAL OF ASSETS DISALLOWANCE

Losses on the disposal of assets are not a recognized cost. Consequently, the expense was disallowed.

Regulation: 10 NYCRR Section 86-2.17(a), PRM-1 Section 132

4. COLLECTION EXPENSE DISALLOWANCE

Bad debt expenses are not allowable costs. Collection fees 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. Consequently, collections fees expense was disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d), PRM-1 Section 300

5. LABORATORY AND RADIOLOGY EXPENSE DISALLOWANCES

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

DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE- BACK %	DIRECT	INDIRECT	NON- COMP.
Admin.	005	\$ 120,013	94.21%		113,064	
Admin.	005	18,556	94.21%		17,482	
Admin.	005	11,195	94.21%		10,547	
Fiscal	004	30,412	94.21%		28,651	
Laboratory	031	103,186	100.00%			103,186
Radiology	034	36,123	98.73%			35,664

LORETTQ HEALTH AND REHABILITATION CENTER
RATE PERIODS JANUARY 1, 2004 THROUGH DECEMBER 31, 2007
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	OPERATING EXPENSE COMPONENT			
					DIRECT	INDIRECT	NON-COMP.	
6. UTILITY EXPENSE DISALLOWANCE								
	Based on information and documentation provided by the Facility, this audit adjustment has been eliminated.							
7. MEDICAL STAFF SERVICES EXPENSE DISALLOWANCE								
	Based on information and documentation provided by the Facility, this audit adjustment has been eliminated.							
8. INHALATION THERAPY EXPENSE DISALLOWANCE								
	Inhalation Ther.	035	39,191	100.00%			39,191	
	Leased inhalation therapy equipment was erroneously reported as an operating expense. Rental expenses are considered property expenses and should not be included in the operating component of the rate. A reclassification was necessary to reclassify equipment rental expense from operating costs to property costs. Regulations: 10 NYCRR Sections 86-2.10(g) & 86-2.17(a), PRM-1 Section 2102.2							
Total Disallowances/(Allowances)						\$ -	\$ 169,744	\$ 178,041
AUDITED OPERATING EXPENSE BY COMPONENT						\$ 20,937,749	\$ 11,381,419	\$ 2,367,064

LORETO HEALTH AND REHABILITATION CENTER
RATE PERIODS JANUARY 1, 2004 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS		
				2004	2005	2007
Property Expense Allowed per HE-12B				\$ 5,000,666	\$ 4,946,992	\$ 4,889,667
Less Disallowances/(Allowances):						\$ 4,666,705

1. BUILDING AND FIXED EQUIPMENT DEPRECIATION ALLOWANCES

Audited building and fixed equipment depreciation expense varied from the expense allowed in the promulgated rates. This resulted in allowances.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304

2. MORTGAGE INTEREST AND INSURANCE EXPENSE DISALLOWANCES

Audited rate year interest was less than the mortgage interest allowed in the promulgated rate resulting in disallowances.

Regulation: 10 NYCRR Section 86-2.20

3. PROPERTY INSURANCE DISALLOWANCES

Based on information and documentation provided by the Facility, this audit adjustment has been eliminated.

4. MOVABLE EQUIPMENT DEPRECIATION ADJUSTMENTS

a) Providers 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. Movable equipment depreciation expense determined by audit varied from the expense allowed in the rate computation process. Consequently, allowances were necessary.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304

b) In accordance with Bureau of Long Term Care Reimbursement rate methodology, lease payments are allowed in lieu of depreciation and interest on capitalized leases. Consequently, movable equipment depreciation on the capitalized lease was disallowed.

Regulations: 10 NYCRR Sections 86-2.17(d) & 2.22(c)

5. AUTO INSURANCE DISALLOWANCES

Based on information and documentation provided by the Facility, this audit adjustment has been eliminated.

DESCRIPTION	CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS		
				2004	2005	2007
Bldg. Depr.	001	(392)	91.03%	(357)	(357)	(357)
Bldg. Depr.	001	(111)	91.02%			(101)
Mortg. Int.	003	47,895	91.02%			43,594
Mortg. Ins.	005	373	94.21%	351	351	351
ME Depr.	002	(13,170)	91.03%	(11,989)	(11,989)	(11,989)
ME Depr.	002	477,239	91.89%			438,535

LORETTIO HEALTH AND REHABILITATION CENTER
RATE PERIODS JANUARY 1, 2004 THROUGH DECEMBER 31, 2007
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	COST CTR.	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS			
				2004	2005	2006	2007
6. EQUIPMENT RENTAL ADJUSTMENTS							
a) Leased inhalation therapy equipment was erroneously reported as a operating expense. Rental expenses are considered property expenses and should not be included in the operating component of the rate. A reclassification was necessary to reclassify equipment rental expense from operating costs to property costs. Regulations: 10 NYCRR Section 86-2.10(g) & 86-2.17(a), PRM-1 Section 2102.2	035	(39,191)	100.00%	(39,191)	(39,191)	(39,191)	
7. CAPITALIZED LEASED MOVABLE EQUIPMENT ALLOWANCE							
In accordance with the Bureau of Long Term Care Reimbursement capital cost methodology, movable equipment lease payments are allowed in lieu of depreciation and interest on capitalized leases. Consequently, an allowance was necessary. Regulation: 10 NYCRR Section 86-2.22(c)	002	(346,087)	91.89%			(318,019)	
8. WORKING CAPITAL INTEREST INCOME OFFSET REVERSAL							
The working capital income offset in the promulgated rates was determined to be improper. Consequently, it was necessary to reverse the offset. Regulation: 10 NYCRR Section 86-2.20(c)(2)	005	(3,751)	94.21%	(3,534)	(3,534)	(3,534)	
Total Expense Disallowances/(Allowances)				\$ (54,720)	\$ (54,720)	\$ (54,720)	\$ 164,009
AUDITED PROPERTY EXPENSE				\$ 5,055,386	\$ 4,892,272	\$ 4,834,947	\$ 4,502,696