



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

September 20, 2012

[REDACTED]
Heritage Commons Residential Health Care
1019 Wicker Street
Ticonderoga, New York 12883

Re: Medicaid Rate Audit #09-3742
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 Heritage Commons Residential Health Care's (the "Facility") Medicaid rates for the rate period January 1, 2006 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 audit report.

In response to the draft audit report dated June 12, 2012, you informed us that you are in agreement with it; accordingly, the findings in the final audit report remain identical to 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 underpayment currently due the Facility is \$677,754. This underpayment is subject to Department of Health (the "DOH") and Division of Budget (the "DOB") final approval. While not anticipated, any difference between the calculated underpayment and the final DOH and DOB approved amount will be resolved with the Facility by the OMIG Bureau of Collections Management.

Arrangements for crediting the Facility for the amount of the underpayment will be made by the OMIG Bureau of Collections Management. Should you have any questions, please contact them at:

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 [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
Bureau of Rate Audit
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 - Property Expense Disallowances/(Allowances)

CERTIFIED MAIL # [REDACTED]
RETURN RECEIPT REQUESTED

HERITAGE COMMONS RESIDENTIAL HEALTH CARE
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF PER DIEM IMPACT AND MEDICAID OVERPAYMENT/(UNDERPAYMENT)

<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 (UNDERPAYMENT)</u>
01/01/06 - 03/31/06	\$179.31	\$186.80	(\$7.49)	6,167	\$ (46,191)
04/01/06 - 06/30/06	178.12	185.61	(7.49)	6,304	(47,217)
07/01/06 - 09/30/06	182.47	189.96	(7.49)	6,202	(46,453)
10/01/06 - 12/31/06	183.37	190.86	(7.49)	5,920	(44,341)
01/01/07 - 03/31/07	188.83	200.83	(12.00)	5,789	(69,468)
04/01/07 - 06/30/07	187.97	199.97	(12.00)	5,986	(71,832)
07/01/07 - 08/31/07	187.66	199.66	(12.00)	4,099	(49,188)
09/01/07 - 12/31/07	187.66	199.66	(12.00)	7,765	(93,180)
01/01/08 - 03/31/08	190.20	199.06	(8.86)	5,751	(50,954)
04/01/08 - 06/30/08	187.60	196.46	(8.86)	5,977	(52,956)
07/01/08 - 12/31/08	190.31	199.17	(8.86)	11,961	<u>(105,974)</u>
TOTAL MEDICAID OVERPAYMENT/(UNDERPAYMENT)					<u>\$ (677,754)</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.

HERITAGE COMMONS RESIDENTIAL HEALTH CARE
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 80 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 Medicare Part B & D Non-Eligible Rates *</u>
01/01/06 - 03/31/06	\$179.31
04/01/06 - 06/30/06	178.12
07/01/06 - 09/30/06	182.47
10/01/06 - 12/31/06	183.37
01/01/07 - 03/31/07	188.83
04/01/07 - 06/30/07	187.97
07/01/07 - 08/31/07	187.66
09/01/07 - 12/31/07	187.66
01/01/08 - 03/31/08	190.20
04/01/08 - 06/30/08	187.60
07/01/08 - 12/31/08	190.31

* 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.

HERITAGE COMMONS RESIDENTIAL HEALTH CARE
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES (ALLOWANCES)

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS		
				2006	2007	2008
		\$ 1,360,153	\$ 1,253,131	\$ 1,212,801		

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

1. AUTO INSURANCE EXPENSE ALLOWANCE

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. Audited auto insurance varied from the insurance expense allowed in the rate resulting in an allowance.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.2, 2300 & 2304

2. PROPERTY 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. Audited property insurance varied from the insurance expense allowed in the rate resulting in adjustments.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.2, 2300 & 2304

3. MORTGAGE EXPENSE AMORTIZATION DISALLOWANCES

Mortgage expense amortization was determined to be included within the building component of Approved Project Cost (APC) #942764. Reported mortgage expense amortization was disallowed since it is being already reimbursed through the APC building and fixed equipment depreciation.

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

4. INVESTMENT INCOME RECOVERY

a) Interest expense shall be reduced by investment income with the exception of income earned by funded depreciation accounts and certain other restricted funds. The Facility incorrectly reported the Mortgage Repayment Fund interest income as "Unrestricted Interest Income". This interest income should have been reported as "Restricted Interest Income" and should not have been offset against interest expense. In addition, reported Mortgage Repayment Fund interest income for rate year 2007 erroneously included unrestricted interest income which appropriately should be offset to interest expense. Consequently, adjustments to the investment income offsets were necessary.

Regulations: 10 NYCRR Sections 86-2.17(a) & 2.20(c)(1), PRM-1 Section 202.2

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS		
				2006	2007	2008
Auto Ins.	005	(\$1,249)	87.63%		(1,094)	
Prop. Ins.	005	605	88.19%			534
Mort. Exp. Amort.	001	27,135	80.28%	21,784		
Mort. Exp. Amort.	001	27,135	83.51%			22,660
Inv. Inc. Offset	003	10,800	80.28%	8,670		
Inv. Inc. Offset	003	(68,332)	81.08%		(55,404)	
Inv. Inc. Offset	003	(73,274)	83.51%			(61,191)

HERITAGE COMMONS RESIDENTIAL HEALTH CARE
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	CENTER	COST DISALLOWED	TRACE-BACK %	RATE PERIODS		
					2006	2007	2008
4. INVESTMENT INCOME RECOVERY (CONT.)							
b) Expense shall be reduced by the cost of services and activities which are not properly chargeable to patient care. In the event that it is not practicable to establish the cost of such services and activities, the income derived from them may be substituted for their cost. Interest expense is to be reduced by investment income. Investment income shall be defined as the aggregate net amount realized from dividends, interest, rental income, interest earned on temporary investment of withholding taxes, as well as all gains and losses. Therefore, the rental income derived from the lease of space for communication equipment was offset as a recovery of expense. Regulations: 10 NYCRR Sections 86-2.18 & 86-2.20(c)(1)	Inv. Inc. Offset	003	8,400	83.51%		7,015	
5. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE	Reported working capital interest expense pertained to a loan between the Facility and Moses Luddington Hospital, a related entity. In order for interest expense to be allowable, interest shall be paid to a lender not related through control, ownership, or affiliation to the borrower. Since this is a loan between related parties, working capital interest was disallowed. Regulation: 10 NYCRR Section 86.2.20(b)	WC Interest	005	24,975	88.19%	22,025	
6. WORKING CAPITAL INTEREST INCOME OFFSET REVERSAL	Reported investment income was appropriately offset against Working Capital interest expense in the original rate computation. However, Adjustment #5 disallowed all Working Capital interest expense. Consequently, it was necessary to reverse the offset of investment income imposed in the rate computation. Regulations: 10 NYCRR Sections 86.2.20(b) & (c)	WC Interest	005	(24,975)	88.19%		(22,025)
7. MORTGAGE INTEREST EXPENSE ALLOWANCES	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 rate computation process resulting in allowances. Regulation: 10 NYCRR Section 86-2.20(a)	Mort. Int.	003	(353)	80.28%	(283)	
		Mort. Int.	003	(44,688)	81.08%	(36,233)	
		Mort. Int.	003	(47,914)	83.51%		(40,013)
8. MORTGAGE INSURANCE EXPENSE ADJUSTMENTS	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 rate computation process. Additionally, mortgage insurance is subject to the overmortgaging percent limitation. Consequently, adjustments were necessary. Regulations: 10 NYCRR Sections 86-2.17(a) & 2.20(a)	Mort. Ins.	005	5,090	87.35%	4,446	
		Mort. Ins.	005	(52,802)	87.63%	(46,270)	
		Mort. Ins.	005	(56,422)	88.19%		(49,759)

HERITAGE COMMONS RESIDENTIAL HEALTH CARE
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS	
				2006	2007
Other Income	001	(273,376)	81.08%	(221,653)	(228,296)
Other Income	001	(273,376)	83.51%		
Bldg. Depr.	001	276,302	81.08%	224,026	
Bldg. Depr.	001	281,854	83.51%		235,376
Bldg. Depr.	001	25,076	81.08%	20,332	
Bldg. Depr.	001	25,076	83.51%		20,941
ME Depr.	002	14,792	81.08%	11,993	
ME Depr.	002	15,709	83.51%		13,119
ME Depr.	002	12,656	81.08%	10,261	
ME Depr.	002	12,656	83.51%		10,569

9. OTHER INCOME OFFSET REVERSAL

The Bureau of Long Term Care Reimbursement (BLTCR) made a recovery of the rent paid by Moses Luddington Hospital for the capital costs associated with the space occupied by the hospital. However, the Facility's depreciation and interest expenses have been adjusted to exclude all hospital related capital costs. Since the hospital related capital costs are not included in the Facility's capital costs, the recovery of rental income should be reversed.

Regulations: 10 NYCRR Section 86-2.17(a) & 86-2.18, PRM-1 Section 2102.2

10. BUILDING AND FIXED EQUIPMENT DEPRECIATION DISALLOWANCES

a) The audit of building and fixed equipment depreciation included in the promulgated rates disclosed the expense to be overstated each year when compared to audited building and fixed equipment depreciation. Consequently, disallowances were necessary.

Regulations: 10 NYCRR Sections 86-2.17(a) & 2.19(a), PRM-1 Section 2102.3

b) In prior audits, certain asset costs related to APC #942764 were disallowed. Accordingly, the depreciation expense applicable to these costs were disallowed.

Regulations: 10 NYCRR Sections 86-2.17(a) & (d) & 2.19(a), PRM-1 Section 2102.3

11. MOVABLE EQUIPMENT DEPRECIATION DISALLOWANCES

a) The audit of movable equipment depreciation included in the promulgated rates disclosed the expense to be overstated each year when compared to audited movable equipment depreciation. Consequently, disallowances were necessary.

Regulations: 10 NYCRR Sections 86-2.17(a) & 2.19(a), PRM-1 Section 2102.3

b) The Bureau of Long Term Care Reimbursement 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 telephone depreciation expense in the property component amounts to duplicate reimbursement. Consequently, disallowances were necessary.

Regulation: 10 NYCRR Section 86-2.17(d)

HERITAGE COMMONS RESIDENTIAL HEALTH CARE
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CENTER	DISALLOWED (ALLOWED)	TRACE-BACK %	RATE PERIODS		
					2006	2007	2008
12. DIRECT ASSIGNMENT ALLOWANCES							
The OMIG determined that the stepdown of depreciation and interest expense using gross square footage results in a disproportionate share of these costs being allocated to the Adult Home. The 2004, 2005, and 2006 traceback percentages for the Adult Home are 19.72%, 18.92%, and 16.49% respectively. However, based on the actual costs of the major nursing home expansion and renovation project completed in 2001, only 2.9% of the project cost pertains to the Adult Home. To correct this allocation problem, the difference between the capital costs allocated to the Adult Home by using the traceback percentages and the allocation based on 2.9% of capital costs will be included as direct assignment allowances.							
Regulations: 10 NYCRR Sections 86-2.17(a) & 2.19(a), PRM-1 Section 2102.3							
Total Disallowances/(Allowances)					\$ (227,575)	\$ (358,513)	\$ (265,480)
AUDITED PROPERTY EXPENSE					\$ 1,587,728	\$ 1,611,644	\$ 1,478,281