



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 10, 2014

[REDACTED]
Lawrence Nursing Care Center, Inc.
350 Beach 54th Street
Arverne, New York 11692

Re: Medicaid Rate Audit #11-3853
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 Lawrence Nursing Care Center'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.

Since you did not respond to our draft audit report dated May 29, 2014, 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 overpayment currently due is \$271,418. 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 #11- 3853
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

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 11-3853 in all correspondence.

Sincerely,

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

Enclosure:

- EXHIBIT I - Summary of Per Diem Impact and Medicaid Overpayment
- EXHIBIT II - Summary of Medicaid Rates Audited
- EXHIBIT III - Operating Expense Disallowances/(Allowances)
- EXHIBIT IV - Property Expense Disallowances/(Allowances)
- EXHIBIT V - Return on Average Equity Disallowances/(Allowances)
- EXHIBIT VI - Per Diem Disallowances

CERTIFIED MAIL [REDACTED]
RETURN RECEIPT REQUESTED

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

NAME AND ADDRESS OF AUDITEE

LAWRENCE NURSING CARE
CENTER, INC.
350 BEACH 54TH STREET
ARVERNE, NEW YORK 11692

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

AUDIT #11-3853

AMOUNT DUE: \$271,418

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 #11-3853
Albany, New York 12237-0048

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

[REDACTED]

CORRECT PROVIDER NUMBER

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 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>
01/01/06 - 03/31/06	\$193.38	\$191.97	\$1.41	14,819	\$ 20,895
04/01/06 - 06/30/06	202.63	200.91	1.72	15,299	26,314
07/01/06 - 09/30/06	204.02	202.31	1.71	15,638	26,741
10/01/06 - 12/31/06	233.28	231.57	1.71	15,751	26,934
01/01/07 - 03/31/07	244.06	242.48	1.58	14,759	23,319
04/01/07 - 06/30/07	242.73	241.16	1.57	14,695	23,071
07/01/07 - 08/31/07	241.31	239.74	1.57	10,112	15,876
09/01/07 - 12/31/07	241.31	239.74	1.57	19,537	30,673
01/01/08 - 03/31/08	246.81	245.49	1.32	14,057	18,555
04/01/08 - 06/30/08	242.32	240.99	1.33	14,788	19,668
07/01/08 - 12/31/08	246.14	244.81	1.33	29,603	<u>39,372</u>
TOTAL MEDICAID OVERPAYMENT					<u>\$ 271,418</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.

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 82 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>	ISSUED MEDICARE PART B & D <u>NON-ELIGIBLE RATES *</u>
01/01/06 - 03/31/06	\$193.38
04/01/06 - 06/30/06	202.63
07/01/06 - 09/30/06	204.02
10/01/06 - 12/31/06	233.28
01/01/07 - 03/31/07	244.06
04/01/07 - 06/30/07	242.73
07/01/07 - 08/31/07	241.31
09/01/07 - 12/31/07	241.31
01/01/08 - 03/31/08	246.81
04/01/08 - 06/30/08	242.32
07/01/08 - 12/31/08	246.14

*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.

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>DESCRIPTION</u>	<u>COST</u> <u>CTR.</u>	<u>OPERATING EXPENSE COMPONENT</u>		
			<u>DIRECT</u>	<u>INDIRECT</u>	<u>NON- COMP</u>
Operating Expense Allowed per HE-12B			\$ 6,222,106	\$ 3,391,763	\$ 552,283
Less Disallowances/(Allowances):					
 BASE PERIOD SALES TAX ON OPERATING EXPENSE DISALLOWANCES					
For rate years January 1, 2006 through December 31, 2008, the Facility reported and was reimbursed for all sales tax expense in the property portion of the rate. Since sales tax is included in Facility's base year and since this year is also the basis for the operating portion of the January 1, 2006 through December 31, 2008 rates, inclusion of sales tax in the capital portion of the rate resulted in duplicate reimbursement. In order to eliminate the duplication, disallowances to the operating component of the January 1, 2006 through December 31, 2008 rates were necessary.					
Regulations: 10 NYCRR Sections 86-2.17(a) & (d)					
	Fiscal Services	004		3,316	
	Plant Operation	006		7,053	
	Security	008		95	
	Laundry & Linen	009		3,768	
	Housekeeping	010		5,363	
	Activities Program	014	672		
	Social Services	021	172		
	Physical Therapy	039	395		
	Occup. Therapy	040	1,947		
	Central Service	043	16,353		
	Electricity	106			11,555
	Gas	106			464
	Water and Sewer	106			2,292
	Fuel Oil	106			3,421
Total Disallowances/(Allowances)			<u>\$ 19,539</u>	<u>\$ 19,595</u>	<u>\$ 17,732</u>
AUDITED OPERATING EXPENSE BY COMPONENT			<u>\$ 6,202,567</u>	<u>\$ 3,372,168</u>	<u>\$ 534,551</u>

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS			
			01/01/06	04/01/06	01/01/07	01/01/08
			<u>03/31/06</u>	<u>12/31/06</u>	<u>12/31/07</u>	<u>12/31/08</u>
Property Expense Allowed per HE-12B			\$ 690,558	\$ 690,558	\$ 988,839	\$ 1,009,493
Less Disallowances/(Allowances):						
1. MOVABLE EQUIPMENT DEPRECIATION ADJUSTMENTS						
(a) Providers who receive 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. Additionally, the data must be current, accurate, and in sufficient detail. Portions of depreciation expense included in the promulgated rate could not be verified with documentation the Facility provided. Consequently, disallowances were necessary. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2300 & 2304	ME Depr.	002			113	
	ME Depr.	002				994
(b) To be considered an allowable cost in determining reimbursement rates, cost shall be patient care related. Patient care related cost are costs that are appropriate, necessary and proper in developing and maintaining the operation of patient care facilities and activities. The Facility did not provide sufficient documentation to justify patient care related use of an automobile. Consequently, depreciation on the automobile was disallowed. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3 & 2105.9	ME Depr.	002			1,985	
(c) The OMIG determined that the Bureau of Long Term Care Reimbursement duplicated the adjustment for telephone depreciation expense. Therefore, an allowance was necessary to eliminate the duplication. Regulation: 10 NYCRR Section 86-2.17(d)	ME Depr.	002			(4,318)	
(d) The OMIG determined that auto depreciation expense allowed in the 2006 promulgated rates was duplicated. Therefore, a disallowance was necessary to eliminate the duplication. Regulation: 10 NYCRR Section 86-2.17(d)	ME Depr.	002	4,952	4,952		
2. EQUIPMENT RENT EXPENSE DISALLOWANCES						
(a) Providers who receive 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. Additionally, the data must be current, accurate, and in sufficient detail. Portions of the expense included in the promulgated rates for the 2006 and 2007 rates could not be substantiated, because the back-up data provided was insufficient. Therefore, these costs were disallowed. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 & 2304	Rent E	004	10,378	10,378		
	Rent C	043	2,469	2,469		
	Rent A	002			692	
	Rent B	004			9,578	
	Rent B	004				34,584
	Rent D	004	5,623	5,623		

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	DESCRIPTION	COST CTR.	RATE PERIODS			
			01/01/06	04/01/06	01/01/07	01/01/08
			<u>03/31/06</u>	<u>12/31/06</u>	<u>12/31/07</u>	<u>12/31/08</u>
2. EQUIPMENT RENT EXPENSE DISALLOWANCES (CONTINUED)						
(b) The Facility's equipment rent expense included an amount for telephone expense. However, the Bureau of Long Term Care Reimbursement (BLTCR) has classified telephone expense as an operating expense and is included in the formula used to determine the base, mean and ceiling prices used to establish the indirect expense corridor. Thus, reimbursing telephone equipment lease expense in the capital expense component of the rate resulted in duplicate reimbursement. Consequently, disallowances were necessary. Regulation: 10 NYCRR Section 86-2.17(d)	Rent A	002			10,704	
	Rent A	002				2,800
(c) To be considered an allowable cost in determining reimbursement rates, cost shall be patient care related. Patient care related cost are costs that are appropriate, necessary and proper in developing and maintaining the operation of patient care facilities and activities. The Facility did not provide sufficient documentation to establish patient care related use of the automobiles. Consequently, the associated rent expenses were disallowed. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3 & 2105.9	Rent A	006	6,549	6,549		
	Rent C	006			14,195	
	Rent C	006				6,759
(d) Portions of the amount allowed for oxygen tank rent, is attributable to oxygen. Since oxygen expense is an operating expense, a disallowance was necessary. Regulations: 10 NYCRR Sections 86-2.10(g), 86-2.17(d), 455.35 & 458.5	Rent D	043				1,143
(e) To be considered an allowable cost in determining reimbursement rates, cost shall be patient care related. Patient care related cost are costs that are appropriate, necessary and proper in developing and maintaining the operation of patient care facilities and activities. The OMIG determined that portions of the amount allowed for rent expense included late fees and excess taxes. These types of charges are not allowable for Medicaid reimbursement. Disallowances were therefore, necessary. Regulations: 10 NYCRR Sections 86-2.10(g) & 86-2.17(d), PRM-1 Section 2102.2	Rent G	009	203	203		
(f) Portions of the amount allowed for rent expense included cost for maintenance. Maintenance expense is an operating expense. As a result, it was disallowed. Regulations: 10 NYCRR Sections 86-2.10(g), 86-2.17(d)	Rent B	004			12,945	

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	COST	RATE PERIODS			
		01/01/06	04/01/06	01/01/07	01/01/08
		<u>03/31/06</u>	<u>12/31/06</u>	<u>12/31/07</u>	<u>12/31/08</u>
3. AUTO INSURANCE EXPENSE DISALLOWANCES					
To be considered an allowable cost in determining reimbursement rates, cost shall be patient care related. Patient care related cost are costs that are appropriate, necessary and proper in developing and maintaining the operation of patient care facilities and activities. The Facility did not provide sufficient documentation to establish patient care related use of the automobiles. As a result, insurance expenses attributable to autos were disallowed. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3 & 2105.9	Auto Ins. 006	7,046	7,046		
	Auto Ins. 006			2,803	
	Auto Ins. 006				9,724
4. RETURN ON AVERAGE EQUITY DISALLOWANCES					
Proprietary residential health care facilities are entitled to a reasonable return on average equity for equity associated with necessary and proper patient care activities. Equity used to determine the 2006 and 2007 promulgated that included an allowance for goodwill. The Commissioner has determined that goodwill is not an allowable cost for Medicaid reimbursement. Consequently, the amount allowed for goodwill was disallowed. Additionally, the returns included amounts attributable to building lease, organizational and mortgage costs. Building lease is reimbursed through building rent. In accordance with regulations, allowable cost shall not include any element of cost as determined by the commissioner to have been created by the sale of a residential health care facility or refinance of its mortgage. Consequently, these costs were disallowed. (See Exhibit V) Regulations: 10 NYCRR Section 86-2.17(d) & 86-2.28	Ret.on Avg. Eq. 005	8,556	8,556		
	Ret.on Avg. Eq. 005			919	
5. START-UP COST AMORTIZATION DISALLOWANCES					
Providers who receive 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. In addition, the data must be current, accurate, and in sufficient detail. The OMIG determined that this cost is a component of building cost and as a result, it is being reimbursed through building rent expense. To eliminate the duplication, a disallowance was necessary. Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.2, 2300 & 2304	Start-Up Amort. 005	18,750	18,750		
6. SALES TAX EXPENSE ADJUSTMENTS					
Providers who receive 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 sufficient detail. Audited sales tax exceeded the amount allowed in determining the 2006 rates while the amount allowed in determining the 2007 and 2008 rates exceeded audited expense. Consequently, adjustments were necessary. Regulations: 10 NYCRR Sections 86-2.10(a) & 86-2.17(a), PRM-1 Sections 2300 & 2304	Sales Tax 005	(8,059)	(8,059)		
	Sales Tax 005			29,568	
	Sales Tax 005				9,462

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

	COST	RATE PERIODS			
		01/01/06	04/01/06	01/01/07	01/01/08
<u>DESCRIPTION</u>	<u>CTR.</u>	<u>03/31/06</u>	<u>12/31/06</u>	<u>12/31/07</u>	<u>12/31/08</u>
7. WORKING CAPITAL INTEREST EXPENSE DISALLOWANCE					
Effective April 1, 2006 and thereafter, rates shall not contain a payment factor for working capital interest if the RHCF-4 report utilized to determine such payment factor also shows a withdrawal of equity, a transfer of assets, or a positive net income. The Facility had a positive net income in cost year 2004. Consequently, working capital interest expense was disallowed.	WCI	005		27,000	
Regulations: 10 NYCRR Section 86-2.17(d), Public Health Law, Section 2808, Paragraph 22(a)					
Total Disallowance/(Allowances)		\$ 56,467	\$ 83,467	\$ 79,184	\$ 65,466
AUDITED PROPERTY EXPENSE		\$ 634,091	\$ 607,091	\$ 909,655	\$ 944,027

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
RETURN ON AVERAGE EQUITY DISALLOWANCES/(ALLOWANCES)

<u>Return on Average Equity</u>	RATE PERIODS	
	<u>2006</u>	<u>2007</u>
Average Equity per HE-12B	\$ 1,123,824	\$ 1,568,694
Audit Disallowances:		
Due To Parent/Affiliate	2,113	(1,375)
Due From Parent/Affiliate	-	-
Net Cost of Lease	(164,062)	(145,368)
Net Goodwill	(44,167)	(44,167)
Net Organizational Cost	(18,222)	(18,128)
Net Mortgage Cost	(1,114)	(796)
Audited Average Equity	\$ 898,372	\$ 1,358,860
Less: Audited Net Investment	-	-
Audited Remaining Equity	\$ 898,372	\$ 1,358,860
Rate of Return	3.76%	5.07%
Return on Equity Per Audit	\$ 33,779	\$ 68,894
Return on Equity Per HE-12B	42,335	69,813
Disallowance/(Allowance)	\$ 8,556	\$ 919

LAWRENCE NURSING CARE CENTER - AUDIT #11-3853
RATE PERIODS JANUARY 1, 2006 THROUGH DECEMBER 31, 2008
PER DIEM DISALLOWANCES
REDUCTION IN OBRA AND GLOVES PER DIEM ADD-ON ADJUSTMENTS

Facilities with operating base periods that begin prior to April 1, 1991 are allowed an OBRA per diem to compensate for Federally mandated direct expenses. Facilities with operating base periods that begin prior to April 1, 1994 are allowed a per diem for gloves supplies to compensate for Federally mandated direct expenses. Lawrence Nursing Care Center's operating base period runs from October 1, 1993 through September 31, 1994. Since the Facility's base period starts before April 1, 1994, the increase in nursing costs and Federally mandated expenditures were included in its base period direct operating costs. The OMIG determined that in addition, the Facility received OBRA and Gloves per diem add on in its January 1, 2006 through December 31, 2008 rates and the per diem add-on exceeded the direct cost ceiling limitations in the applicable rate calculations. Consequently, the OBRA and Gloves per diem add-on were reduced by the excess.

Regulations: 10 NYCRR Sections 86-2.10(r), 86-2.10(u), and 86-2.17(a), Bureau of Long Term Care Reimbursement Rate Setting Policy

	RATE PERIODS		
	<u>01/01/06</u>	<u>04/01/06</u>	<u>07/01/06</u>
	<u>03/31/06</u>	<u>06/30/06</u>	<u>12/31/06</u>
OBRA Per Diem Adjustment	\$ 0.81	\$ 0.81	\$ 0.81
Gloves Per Diem Adjustment	0.27	0.27	0.27
Total Per Diem Add-On	1.08	1.08	1.08
Direct Cost Ceiling Per Diem Reduction	0.89	0.98	0.99
Disallowance/(Allowance) to Per Diem Add-On	\$ 0.19	\$ 0.10	\$ 0.09