



**STATE OF NEW YORK
OFFICE OF THE MEDICAID INSPECTOR GENERAL**
90 Church Street, 14th Floor
New York, New York 10007

ANDREW M. CUOMO
GOVERNOR

JAMES C. COX
MEDICAID INSPECTOR GENERAL

February 28, 2013

[REDACTED]
West Lawrence Care Center, LLC
1410 Seagirt Boulevard
Far Rockaway, New York 11691

Re: Medicaid Rate Audit #05-1821
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 West Lawrence Care Center, LLC's (the "Facility") Medicaid rates for the rate period September 18, 2003 through December 31, 2006. 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 August 27, 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 \$72,359 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 \$138,125. 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 2006 that utilized the September 18, 2003 through September 17, 2004 base period for operating expense. Any overpayment resulting from operating expense disallowances in the September 18, 2003 through September 17, 2004 base period report for rates subsequent to 2006 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 #05-1821
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 [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]
Bureau of Rate Audit
Division of Medicaid Audit
Office of the Medicaid Inspector General

Enclosure

- 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)
- EXHIBIT V - 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

West Lawrence Care Center, LLC
1410 Seagirt Boulevard
Far Rockaway, New York 11691

NPI #: [REDACTED]

PROVIDER #: [REDACTED]

AUDIT #05-1821

AMOUNT DUE: \$138,125

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 #05-1821
Albany, New York 12237-0048

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

CORRECT PROVIDER NUMBER

**WEST LAWRENCE CARE CENTER - AUDIT #05-1821
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 included in the final audit report.

EXHIBIT V COMMENTS

Per Diem Disallowances – Health Personnel Recruitment and Retention (HR&R) Disallowance

Based on the Facility's response and the documentation included, this adjustment has been eliminated.

WEST LAWRENCE CARE CENTER, LLC
SUMMARY OF CHANGES FROM DRAFT REPORT TO FINAL REPORT - AUDIT #05-1821

EXHIBIT III - OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

	<u>Rate Period</u>	<u>Draft Disallowance (Allowance)</u>	<u>Change</u>	<u>Final Disallowance (Allowance)</u>
1. UNSUSTANTIATED EXPENSES DISALLOWANCE	Operating Base	\$ 21,215	\$ -	\$ 21,215
2. NURSING CONTRACTED SERVICES EXPENSES DISALLOWANCE	Operating Base	12,500	-	12,500
3. AUTOMOBILE EXPENSES DISALLOWANCE	Operating Base	5,244	-	5,244
4. WATER AND SEWER EXPENSES DISALLOWANCE	Operating Base	4,679	-	4,679

EXHIBIT IV - PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)

1. WORKING CAPITAL INTEREST DISALLOWANCE	09/18/03-12/31/03	17,736	-	17,736
	2004	6,565	-	6,565
	2005	20,003	-	20,003
	2006	21,025	-	21,025
2. AUTO LEASE DISALLOWANCE	09/18/03-12/31/03	4,650	-	4,650
	2004	3,965	-	3,965
	2005	3,965	-	3,965
	2006	3,965	-	3,965
3. AUTO INSURANCE DISALLOWANCE	09/18/03-12/31/03	902	-	902
	2004	769	-	769
	2005	769	-	769
	2006	769	-	769

EXHIBIT V - PER DIEM DISALLOWANCES

HEALTH PERSONNEL RECRUITMENT AND RETENTION (HR&R) DISALLOWANCE	2005	\$ 1.08	\$ (1.08)	\$ -
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WEST LAWRENCE CARE CENTER, LLC - AUDIT #05-1821
RATE PERIODS SEPTEMBER 18, 2003 THROUGH DECEMBER 31, 2006
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>
09/18/03 - 09/30/03	\$182.25	\$181.56	\$0.69	2,462	\$ 1,699
10/01/03 - 12/31/03	183.69	183.01	0.68	17,199	11,695
01/01/04 - 03/31/04	188.87	188.48	0.39	16,496	6,433
04/01/04 - 06/30/04	196.78	196.39	0.39	16,191	6,314
07/01/04 - 09/30/04	200.79	200.40	0.39	17,195	6,706
10/01/04 - 12/31/04	197.65	197.26	0.39	17,814	6,947
01/01/05 - 03/31/05	207.73	207.00	0.73	16,730	12,213
04/01/05 - 04/30/05	217.43	216.70	0.73	5,243	3,827
05/01/05 - 06/30/05	217.43	216.70	0.73	11,029	8,051
07/01/05 - 09/30/05	220.42	219.69	0.73	16,476	12,027
10/01/05 - 12/31/05	211.76	211.03	0.73	17,511	12,783
01/01/06 - 03/31/06	223.00	222.24	0.76	16,178	12,295
04/01/06 - 06/30/06	225.51	224.75	0.76	16,604	12,619
07/01/06 - 09/30/06	226.75	225.99	0.76	16,213	12,322
10/01/06 - 12/31/06	231.00	230.24	0.76	16,045	<u>12,194</u>
TOTAL MEDICAID OVERPAYMENT					<u>\$ 138,125</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.

WEST LAWRENCE CARE CENTER, LLC - AUDIT #05-1821
RATE PERIODS SEPTEMBER 18, 2003 THROUGH DECEMBER 31, 2006
SUMMARY OF MEDICAID RATES AUDITED

The Facility's Medicaid utilization was approximately 88 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>
09/18/03 - 09/30/03	\$ 182.25
10/01/03 - 12/31/03	183.69
01/01/04 - 03/31/04	188.87
04/01/04 - 06/30/04	196.78
07/01/04 - 09/30/04	200.79
10/01/04 - 12/31/04	197.65
01/01/05 - 03/31/05	207.73
04/01/05 - 04/30/05	217.43
05/01/05 - 06/30/05	217.43
07/01/05 - 09/30/05	220.42
10/01/05 - 12/31/05	211.76
01/01/06 - 03/31/06	223.00
04/01/06 - 06/30/06	225.51
07/01/06 - 09/30/06	226.75
10/01/06 - 12/31/06	231.00

* 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.

WEST LAWRENCE CARE CENTER, LLC - AUDIT #05-1821
RATE PERIODS SEPTEMBER 18, 2003 THROUGH DECEMBER 31, 2006
OPERATING EXPENSE DISALLOWANCES/(ALLOWANCES)

OPERATING EXPENSE COMPONENT		NON-	
	DIRECT	INDIRECT	COMP.
	\$ 8,518,157	\$ 4,760,457	\$ 802,293

COST	CTR.

DESCRIPTION

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

1. UNSUBSTANTIATED EXPENSES 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. The cost data must be current, accurate, and in sufficient detail. Additionally, only costs that are properly chargeable to necessary patient care are allowable. The Facility was unable to provide adequate documentation for the reported expenses. Consequently, the unsubstantiated expenses were disallowed.
 Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2300 and 2304

Fiscal	004	13,501
Admin.	005	7,536
Central Svc.	043	178

2. NURSING CONTRACTED SERVICES EXPENSES 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. The cost data must be current, accurate, and in sufficient detail. The contracted service expense paid to RCM Technologies, Inc. for \$12,500 was not substantiated as incurred in the base year period. Accordingly, the reported expense was disallowed.
 Regulations: 10 NYCRR Sections 86-2.4 & 2.17(a), PRM-1 Sections 2300 and 2304

Nurs. Cont. Svc.	051	12,500
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3. AUTOMOBILE EXPENSES 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. The cost data must be current, accurate, and in sufficient detail. Additionally, only costs that are properly chargeable to necessary patient care are allowable. The Facility was not able to substantiate the reported expenses as related to patient care. Consequently, disallowances were necessary.
 Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3, 2300 and 2304

Fiscal	004	1,236
Admin.	005	4,008

4. WATER AND SEWER EXPENSES 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. Additionally, only costs that are properly chargeable to necessary patient care are allowable. The reported water and sewer account included late payment charges of \$4,489 and an unexplained miscellaneous purchase of \$190. These expenses were not properly chargeable to patient care. Consequently, disallowances were necessary.
 Regulations: 10 NYCRR Sections 86-2.17(a)&(g), PRM-1 Sections 202.1 & 2, 2102.3, 2103 and 2300

Utilities & RE	106	4,679
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Total Disallowances/(Allowances)

	\$ 12,678	\$ 26,281	\$ 4,679
TOTAL AUDITED OPERATING EXPENSE BY COMPONENT	\$ 8,505,479	\$ 4,734,176	\$ 797,614

**WEST LAWRENCE CARE CENTER, LLC - AUDIT #05-1821
 RATE PERIODS SEPTEMBER 18, 2003 THROUGH DECEMBER 31, 2006
 PROPERTY EXPENSE DISALLOWANCES/(ALLOWANCES)**

COST CTR.	RATE PERIODS			
	09/18/03-12/31/03	2004	2005	2006
	\$ 650,442	\$ 651,569	\$ 659,832	\$ 710,034

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

1. WORKING CAPITAL INTEREST DISALLOWANCE

Only costs properly chargeable to necessary patient care are allowable. The reported working capital interest consisted of late payment charges that are not properly chargeable to patient care of the nursing facility. Consequently, disallowances were necessary. The Facility was reimbursed for the actual working capital interest paid in the rate years.

Regulations: 10 NYCRR Sections 86-2.17(a)&(g) and 86-2.20(d)(1), PRM-1 Sections 202.1 & 2, 2102.3 and 2103

DESCRIPTION	COST CTR.	09/18/03-12/31/03	2004	2005	2006
WC Interest	005	17,736			
WC Interest	005		6,565		
WC Interest	005			20,003	
WC Interest	005				21,025

2. AUTO LEASE 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. Additionally, only costs that are properly chargeable to necessary patient care are allowable. The reported rental expenses included lease payments on vehicles for the Facility's personnel. The Facility was unable to provide adequate documentation or demonstrate the relationship to patient care for the reported lease expense. Consequently, disallowances were necessary.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3 and 2300

DESCRIPTION	COST CTR.	09/18/03-12/31/03	2004	2005	2006
Rent B	006	4,650			
Rent B	006		3,965		
Rent B	006			3,965	
Rent B	006				3,965

3. AUTO 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. Additionally, only costs that are properly chargeable to necessary patient care are allowable. The Facility was unable to provide adequate documentation or demonstrate the relationship to patient care for the reported vehicles use charges. Consequently, disallowances were necessary.

Regulations: 10 NYCRR Section 86-2.17(a), PRM-1 Sections 2102.3 and 2300

DESCRIPTION	COST CTR.	09/18/03-12/31/03	2004	2005	2006
Auto Insur.	006	902			
Auto Insur.	006		769		
Auto Insur.	006			769	
Auto Insur.	006				769

Total Disallowances/(Allowances)

\$ 23,288	\$ 11,299	\$ 24,737	\$ 25,759
\$ 627,154	\$ 640,270	\$ 635,095	\$ 684,275

TOTAL AUDITED PROPERTY EXPENSE

WEST LAWRENCE CARE CENTER, LLC - AUDIT #05-1821
RATE PERIODS SEPTEMBER 18, 2003 THROUGH DECEMBER 31, 2006
PER DIEM DISALLOWANCES

HEALTH PERSONNEL RECRUITMENT AND RETENTION (HRR)

Based on the Facility's response and the documentation included, the adjustment has been eliminated.