TENNCARE REPORT

Wayne County Nursing Home
Waynesboro, Tennessee

Cost Report and Resident Accounts
For the Period
July 1, 2003, Through June 30, 2004

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

Department of Audit

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STATE OF TENNESSEE
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John G. Morgan
Comptroller

January 23, 2007

The Honorable Phil Bredesen, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
Mr. Darin Gordon, Deputy Commissioner
Bureau of TennCare
Department of Finance and Administration
310 Great Circle Road, 4W
Nashville, Tennessee 37243

Ladies and Gentlemen:

Pursuant to Section 71-5-130, *Tennessee Code Annotated*, and a cooperative agreement between the Comptroller of the Treasury and the Department of Finance and Administration, the Division of State Audit performs examinations of nursing facilities participating in the Tennessee Medical Assistance Program under Title XIX of the Social Security Act (Medicaid).

Submitted herewith is the report of the examination of the Medicaid cost report of Wayne County Nursing Home, Waynesboro, Tennessee, for the period July 1, 2003, through June 30, 2004, and resident accounts for the period July 1, 2003, through June 30, 2004.

A copy of this report has been submitted to the offices of the District Attorney General, 22nd District, and the Tennessee Bureau of Investigation.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/pn
06/019

cc: Mr. Chris Carpenter, Jackson Field Office
Tennessee Bureau of Investigation

The Honorable Mike Bottoms, District Attorney General
22nd Judicial District

State of Tennessee

Audit Highlights

Comptroller of the Treasury Division of State Audit

TennCare Report

Wayne County Nursing Home

Waynesboro, Tennessee

Cost Report and Resident Accounts

For the Period

July 1, 2003, Through June 30, 2004

FINDING RELATED TO PREVIOUSLY UNDISCLOSED BANK ACCOUNTS AND UNDOCUMENTED FUNDS

Improperly Maintaining Accounts Off the Nursing Facility Books; Improper Treatment of Revenue Generated for Accounts Off the Books; Improper Disbursements for Lobbying Activities; Inadequate Documentation of Withdrawals From Accounts Off the Books and Funds Not Accounted For

Wayne County Nursing Home has improperly maintained two off-book accounts directly related to nursing home activities. The circumvention of the nursing home's controls and official records through the use of such unauthorized activities increases the risk of fraud, waste, and abuse. Not all of the transaction activities in these funds are documented and accounted for. One of these is a checking account referred to as the "Special Activity Fund." The other is a savings account composed of net revenues from vending machines, referred to as the "Coke Fund." Net revenues from commissioned vending operations must be reported and deducted from allowable expenses claimed on the cost report. The effect of the revenue disallowed is included in the "Nonallowable Expenses" finding. The purpose of the undocumented withdrawals should be investigated.

FINDINGS RECOMMENDING MONETARY REFUNDS

Nonallowable Expenses Included on the Cost Report

The facility reported $855,781.20 of nonallowable expenses on the "Medicaid Nursing Facility Level 1 Cost Report." As a result of this adjustment, the facility was overpaid $360,374.05, computed from October 1, 2005, through December 31, 2006.

Improper Billing of Resident Hospital Leave Days

Wayne County Nursing Home improperly billed the Medicaid Program for nine hospital leave days in excess of the hospital leave limitation of 15 consecutive days for the year ended June 30, 2004. As a result, the facility was overpaid $955.75 for the nine noncovered hospital leave days.

Inappropriate Charges to Resident Accounts

The facility has inappropriately charged Medicaid residents' trust fund accounts for haircuts, which are Medicaid covered services. As a result of the inappropriate charges, the facility should reimburse 25 Medicaid residents a total of $342.50.

FINDING NOT RECOMMENDING MONETARY REFUNDS

Deficiencies in Accounting for the Resident Trust Fund

Wayne County Nursing Home failed to take adequate measures to safeguard resident trust funds. The facility lacked adequate documentation and proper authorization for withdrawals from the trust funds. Also, the facility did not properly reconcile the account.

Wayne County Nursing Home
Waynesboro, Tennessee
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July 1, 2003, Through June 30, 2004

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INTRODUCTION

PURPOSE AND AUTHORITY OF THE EXAMINATION

The terms of contract between the Tennessee Department of Finance and Administration and the Tennessee Comptroller's office authorize the Comptroller to perform examinations of nursing facilities that participate in the Tennessee Medicaid Nursing Facility Program.

Under their agreements with the state and as stated on cost reports submitted to the state, participating nursing facilities have asserted that they are in compliance with the applicable state and federal regulations covering services provided to Medicaid-eligible recipients. The purpose of our examination is to render an opinion on the nursing facilities' assertions that they are in compliance with such requirements.

BACKGROUND

To receive services under the Medicaid Nursing Facility Program, a recipient must meet Medicaid eligibility requirements under one of the coverage groups included in the *State Plan for Medical Assistance.* The need for nursing care is not in itself sufficient to establish eligibility. Additionally, a physician must certify that recipients need nursing facility care before they can be admitted to a facility. Once a recipient is admitted, a physician must certify periodically that continued nursing care is required. The number of days of coverage available to recipients in a nursing facility is not limited.

The Medicaid Nursing Facility Program provides for nursing services on two levels of care. Level I Nursing Facility (NF-1) services are provided to recipients who do not require an intensive degree of care. Level II Nursing Facility (NF-2) services, which must be under the direct supervision of licensed nursing personnel and under the general direction of a physician, represent a higher degree of care.

Wayne County Nursing Home, Waynesboro, Tennessee, provides only NF-1 services. The facility is owned and operated by Wayne County. The officers/members of the board of directors are as follows:

During the examination period, the facility maintained a total of 109 licensed nursing facility beds. The Division of Quality Assurance of the Department of Health licensed the facility for these beds. Eligible recipients receive services through an agreement with the Department of Health. Of the 39,785 available bed days, the facility reported 37,690 for Medicaid NF-1 residents for the year ended June 30, 2004. Also, the facility reported total operating expenses of $4,311,265 for the period.

The Division of Quality Assurance inspected the quality of the facility's physical plant, professional staff, and resident services. The nursing facility met the required standards.

The following Medicaid reimbursable rates were in effect for the period covered by this examination:

Period	Level I NF (744-0200)
July 1, 2003, to June 30, 2004	$120.45

PRIOR EXAMINATION FINDINGS

This facility has not been examined within the past five years.

SCOPE OF THE EXAMINATION

Our examination covers certain financial-related requirements of the Medicaid Nursing Facility Program. The requirements covered are referred to under management's assertions specified later in the Independent Accountant's report. Our examination does not cover quality of care, clinical, or medical provisions.

STATE OF TENNESSEE
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Independent Accountant's Report

September 22, 2005

The Honorable Phil Bredesen, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
J. D. Hickey, M.D., Deputy Commissioner
Bureau of TennCare
Department of Finance and Administration
310 Great Circle Road, 4W
Nashville, Tennessee 37243

Ladies and Gentlemen:

We have examined management's assertions, included in its representation letter dated September 22, 2005, that Wayne County Nursing Home complied with the following requirements during the cost report period July 1, 2003, through June 30, 2004, and to the facility's resident accounts for the period July 1, 2003, through June 30, 2004.

- Income and expenses reported on the Medicaid Cost Report are reasonable, allowable, and in accordance with state and federal rules, regulations, and reimbursement principles.

- Resident days reported on the Medicaid Cost Report have been counted in accordance with state regulations. Medicaid resident days billed to the state for periods when residents were hospitalized or on therapeutic leave are in accordance with the 15-day hospital stay rule, the 85% occupancy rule, and the 60-day therapeutic leave day rule.

- Charges to residents and charges to residents' personal funds are in accordance with state and federal regulations.

As discussed in management's representation letter, management is responsible for ensuring compliance with those requirements. Our responsibility is to express an opinion on management's assertions about the facility's compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants, and accordingly, included examining on a test basis, evidence about Wayne County Nursing Home's compliance with those requirements and performing such other procedures as we considered necessary under the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Wayne County Nursing Home's compliance with specified requirements.

Our examination disclosed the following instances of material noncompliance applicable to state and federal regulations:

1. Improperly maintaining accounts off the nursing facility books
2. Nonallowable expenses included on the cost report
3. Improper billing of resident hospital leave days
4. Inappropriate charges to resident accounts
5. Deficiencies in accounting for the resident trust fund

In our opinion, except for the instances of material noncompliance described above, management's assertions that Wayne County Nursing Home complied with the aforementioned requirements for the cost reporting period July 1, 2003, to June 30, 2004, and for resident accounts for the period July 1, 2003, to June 30, 2004, are fairly stated in all material respects.

This report is intended solely for the use of the Tennessee General Assembly and the Tennessee Department of Finance and Administration. However, this report is a matter of public record, and its distribution is not limited.

Sincerely,

Arthur A. Hayes, Jr.

Arthur A. Hayes, Jr., CPA
Director

AAH/pn

FINDINGS AND RECOMMENDATIONS

1. <u>Improperly Maintaining Accounts Off the Nursing Facility Books; Improper Treatment of Revenue Generated for Accounts Off the Books; Inadequate Documentation of Withdrawals From Accounts Off the Books</u>

Finding

Wayne County Nursing Home has improperly maintained two unauthorized off-book accounts directly related to nursing home activities. The circumvention of the nursing home's controls and official records through the use of such unauthorized activities increases the risk of fraud, waste, and abuse. As noted below, not all of the transaction activities in these funds are documented and accounted for. One of these is a checking account referred to as the "Special Activity Fund." The other is a savings account composed of net revenues from vending machines, referred to as the "Coke Fund." The current nursing home administrator, in place only since July 2005, brought these accounts to the attention of the auditors. The off-book activities of these accounts occurred during the tenures of two former administrators.

According to the current facility administration, the Coke Fund has been funded with the commissions on soft drink products sold in vending machines placed throughout the facility. The revenue generated from these machines was not posted on the facility's books. As of December 31, 2004, the balance in this account was $3,277.55.

Chapter 1200-13-6-.09(1)(F)(22) of the *Rules of Tennessee Department of Finance and Administration* states, "the cost of any items or services not a part of the cost of providing NF-1 covered services . . . are to be deducted from operating expenses. . . . The following are also expenses not considered a part of the cost of providing routine service, and should be deducted. . . . (e) Costs which are not necessary or related to patient care." Further, Chapter 1200-13-6.09(1)(F)(23) states, "The cost of excludable expenses should be deducted. In the relatively few instances where such costs cannot be adequately determined, deduct the revenue received therefrom."

Wayne County Nursing Home did not exclude any costs, either direct or indirect, associated with the vending machines in its possession. Thus, the revenue (commissions) from the vending sales should have been removed from reimbursable costs. For the year ended June 30, 2004, that recorded amount was $1,860.52. Recorded commissions for the three years prior to 2003 range from $1,445 to $3,000 annually. Under the circumstances, not all commissions actually received may have been recorded.

The uses of these funds are unclear. For several years, lump sum withdrawals have been made from the account, generally on an annual basis. Withdrawal tickets signed by one of the former administrators were observed by auditors for two of these transactions, both signed by that former administrator. There was inadequate documentation maintained for the withdrawals, so the purposes for the withdrawals are not known. Recorded withdrawals by this same former administrator ranged from $2,400 to $3,000 annually for the past three years. For the fiscal year ended June 30, 2004, this former administrator withdrew $3,700.00 in a single transaction on August 20, 2003.

Since these transactions were made from an off-book account that is funded via commissions from vending machines located within the facility and because these commission revenues would thus have been deducted from allowable expenses had they been included on the cost report, then the undocumented withdrawals from this account have been reimbursed, in large part, with Medicaid funding. Under these circumstances, not all of the funds are accounted for. The purpose of these undocumented withdrawals and the use of these funds should be investigated by the Tennessee Bureau of Investigation.

The Special Activity Fund account is funded by employee "donations." Each employee was required to contribute $25 yearly to the fund in exchange for receiving an annual bonus. There were 77 employees who received annual bonuses in August of 2003 and who paid $25 into the fund, for a total of $1,925. The bonuses amount to 40 percent of each employee's base salary. As noted in Finding 2, these bonuses were considered excessive compensation and the costs were disallowed. Additionally, employees would donate $2 to $3 weekly to the fund for the "privilege" of having casual dress day on Fridays. As of June 30, 2005, the balance in this account was $11,038.78.

As with the Coke Fund, documentation for the withdrawals from this account was inadequate and not all funds are accounted for. Available records show that the funds were used for various purposes including Christmas gifts for residents and employees. A record of one canceled check for $1,000 to a former administrator, however, indicated in the "memo" line that the purpose in that instance was for a "refund on TennePac," a Tennessee lobbying organization. Although no other canceled checks were available for inspection, the register for this account indicated that several checks over the years have been written to two former administrators for TennePac-related activity. These transactions, likewise, should be investigated further.

Paragraph 5997I of the *Medicare and Medicaid Guide* states,

> Costs of political activities are unallowable. These activities include, but are not limited to, provider involvement with political parties, candidates/incumbents of political parties, and political action committees or similar committees or associations. Likewise, contributions made directly to political parties or candidates or contributions made indirectly, e.g., through other individuals, committees, or associations, are unallowable.

In addition, Paragraph 5997J of the *Medicare and Medicaid Guide* states that the "Costs of lobbying activities are unallowable."

The revenue of $1,860.52 associated with the Coke Fund and the employee contributions of $1,925.00 to the Special Activity Fund will be disallowed and included in the finding on nonallowable expenses (see finding 2). As of January 12, 2007, the Tennessee Bureau of Investigation had an active and ongoing investigation of activities related to the special activity fund.

Recommendation

Wayne County Nursing Home should establish adequate procedures to ensure compliance with applicable laws and regulations relative to allowable and nonallowable expenses. The facility should also comply with Generally Accepted Accounting Principles while maintaining the facility's records.

Management's Comment

We concur with your findings. The present administration entered all accounts that existed, to our knowledge, onto the books which included the Special Activity account and the Coke Fund account.

2. Nonallowable Expenses Included on the Cost Report

Finding

Wayne County Nursing Home included $855,781.20 of nonallowable expenses on the Nursing Facility Level 1 Cost Report for the year ended June 30, 2004. The nonallowable amount consists of $2,959.10 of unsupported expenses; $20,000.00 of donations; $5,490.30 of radiology expense; $6,419.95 in excess of depreciation expense due to several fixed assets being depreciated too rapidly; $817,126.33 of excess bonuses paid to the employees; $1,860.52 of revenue that should have been offset against allowable expenses; and $1,925.00 of employee contributions to an off-book fund.

In determining the amounts to be considered unreasonable compensation, the reasonable costs of otherwise allowable fringe benefits not provided by the facility have been used to offset the excessive bonuses paid to employees of the facility. The provider could have claimed group health insurance costs as an allowable expense had such coverage been offered to its employees; $559,906.56 was allowed as an offset to the bonus adjustment of $817,126.33. As of early 2006, the provider now has a group health insurance benefit for its employees. Prior to that time, 40 of the employees were enrolled in the State's TennCare Program.

Employees received an annual bonus that was calculated based on the resulting income for the year. In order to receive a bonus, a person had to be an employee as of the end of the fiscal year and contribute $25 to a "Special Activity Fund" (see finding 1). The annual bonuses were approved by the board of directors. The amounts and distribution of the bonuses were left to the discretion of the facility's former administrator. The total amount of bonuses for the year ended June 30, 2004, was $817,126.33, paid to employees across the board based on a percentage of their current-year compensation, which was 40% for that year.

Paragraph 5607 of the *Medicare and Medicaid Guide* states,

> The determination as to the reasonableness of a person's compensation is made by comparing it with the compensation paid to other individuals in similar circumstances. To obtain uniformity in the application of the principle, the intermediary identifies compensation paid to individuals other than owners by comparable institutions in the same geographical area.

The base pre-bonus salaries for the fiscal year ended June 30, 2004, were comparable to similar personnel salaries in that area of the state, according to Labor and Work Force Department studies. However, annual bonuses of 40% of their current-year compensation were clearly excessive and unreasonable.

Chapter 1200-13-6-.09(1)(4) of the *Rules of Tennessee Department of Finance and Administration* states, "Adequate financial records, statistical data, and source documents must be maintained for proper determination of costs under the program." It also specifies that unnecessary costs and costs unrelated to patient care be deducted from allowable expenses.

Paragraph 5866 of the *Medicare and Medicaid Guide* states,

> 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.
>
> Such costs are not allowable in computing reimbursable costs and include:
>
> - Costs of gifts or donations.

Chapter 1200-13-6-.10(1)(d) of the *Rules of Tennessee Department of Finance and Administration* states, "Costs may be included only for covered services as defined by the Department of Health." Chapter 1200-13-6-.08(G)(2)(t) requires the removal of various types of expenses including radiology.

Paragraph 4695 of the *Medicare and Medicaid Guide* states,

> . . . the provider may use certain published useful life guidelines. The guidelines used depend on when the asset was acquired. For assets acquired before January 1, 1981, either the Internal Revenue Service (IRS) or the American Hospital Association (AHA) guidelines may be used. For assets acquired after January 1, 1981, only the AHA guidelines may be used.

As a result of the above adjustments, the facility's Medicaid reimbursable rate was affected as follows:

Period	Original Rate	Adjusted Rate	Difference
October 1, 2005, through June 30, 2006	$116.68	$103.90	($12.78)
July 1 through December 31, 2006	$112.76	$112.76	$ .00

Overpayments made to the facility as a result of the above adjustments total $360,374.05, computed from October 1, 2005, through December 31, 2006.

Recommendation

Wayne County Nursing Home should include only allowable expenses on the "Medicaid Nursing Facility Level 1 Cost Report." All reported expenses should be adequately supported, for covered services, related to patient care, and in compliance with other applicable regulations.

The facility should refund $360,374.05, representing overpayments by the Medicaid Program, to the State of Tennessee as a result of the rate reduction computed from October 1, 2005, through December 31, 2006.

Management's Comment

We concur with your findings. The present administration is exercising greater care in incurring only allowable expenses with the assistance of our CPA who monitors our books on an ongoing basis.

3. Improper Billing of Resident Hospital Leave Days

Finding

Wayne County Nursing Home improperly billed the Medicaid Program for nine hospital leave days in excess of the hospital leave limitation of 15 consecutive days for the year ended June 30, 2004.

Chapter 1200-13-1-.06(4)(b) of the *Rules of Tennessee Department of Finance and Administration* applicable to the period under examination stated, "A Level 1 nursing facility shall be reimbursed . . . for the recipient's bed in that facility during the recipient's temporary absence from that facility . . . for days not to exceed 15 days per occasion while the recipient is hospitalized."

The facility was overpaid $955.75 for the nine noncovered hospital leave days.

Recommendation

Wayne County Nursing Home should not accumulate or bill the Medicaid Program for hospital leave days in excess of the limitation of 15 consecutive hospital leave days. The facility should reimburse to the TennCare Program $955.75, which represents overpayments by the Medicaid Program as a result of the improper billing of hospital leave days.

Management's Comment

We concur with your findings. The present administration now has a second person reviewing census data in order to ensure census is correct before the monthly TAD is submitted.

4. Inappropriate Charges to Resident Accounts

Finding

Wayne County Nursing Home has inappropriately charged Medicaid residents' trust fund accounts for Medicaid covered services. The facility charged 25 residents for haircuts from July 1, 2003, through August 31, 2005.

Chapter 1200-8-6-.06(4)(q) of the *Rules of Tennessee Department of Finance and Administration*, in regard to basic services, states, "Residents shall have shampoos, haircuts, and shaves as needed, or desired."

As a result of the inappropriate charges, the resident trust fund accounts for Medicaid residents have been incorrectly charged for Medicaid covered services in the total amount of $342.50.

Recommendation

Wayne County Nursing Home should not charge Medicaid residents for covered services and should reimburse Medicaid residents a total amount of $342.50. In the future, the facility should provide covered services to all Medicaid residents without charge.

Management’s Comment

We concur with your findings. The present administration does not charge residents for covered services. All residents charged for haircuts have been refunded.

Auditor’s Comment

Copies of refund checks to residents charged for Medicaid covered services were examined. The checks were all dated November 1, 2006, and had not yet posted to the facility’s bank account at the time of this printing.

5. <u>Deficiencies in Accounting for the Resident Trust Fund</u>

Finding

Wayne County Nursing Home failed to take adequate measures to safeguard resident trust funds as required by federal and state laws. The facility lacked adequate documentation and proper authorization for withdrawals from the trust funds. There were sporadic instances where withdrawals from some residents’ accounts were undocumented. There were eight transactions totaling $72.50 for the accounts tested that were not documented, either by receipt, invoice, or patient authorization.

Also, the facility did not reconcile the account timely. Transactions to individual resident accounts were not posted timely, making it extremely difficult for auditors to reconcile the bank balance to the trust fund ledger.

Paragraph 22,163.10(c)(4) of the *Medicare and Medicaid Guide* requires the facility to “establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident’s personal funds entrusted to the facility on the resident’s behalf.”

Chapter 1200-13-6-.10(4) of the *Rules of Tennessee Department of Finance and Administration* states, “Personal funds held by the provider for Medicaid patients used in purchasing clothing and personal incidentals must be properly accounted for with detailed records of amounts received and disbursed and shall not be commingled with nursing facility funds.”

Failure to timely post and properly document withdrawals or disbursements from resident trust fund accounts increases the risk of fraud, waste, and abuse.

Recommendation

Wayne County Nursing Home should establish adequate procedures to ensure compliance with applicable laws and regulations relative to protection of resident trust funds. The facility should institute measures to adequately safeguard and account for resident trust funds and ensure that there are proper controls and authorizations for withdrawals. Although the eight undocumented withdrawals were consistent in amount and in timing with periodic barber/beautician services, documentation should be in place to ensure the adequate safeguarding and accounting for residents' trust funds. This could be easily accomplished by maintaining a barber and beauty log of services as they are rendered to residents. The posting of transactions to individual resident accounts should be made more timely to ensure that account totals can be readily reconciled to the resident trust fund bank account.

Management's Comment

We concur with your findings. The present administration reconciles the resident trust fund ledger monthly and pays for all haircuts out of the facilities operating account.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Rate reduction (see findings 1 and 2)	$360,374.05
Improper billing of resident hospital leave days (see finding 3)	$ 955.75
Inappropriate charges to resident accounts (see finding 4)	$ 342.50
Total	$361,672.30

Disposition of Overpayments

Due to the State of Tennessee	$361,329.80
Due to Medicaid residents or their authorized representatives	$ 342.50
Total	$361,672.30