TENNCARE REPORT

Rosewood Manor, Inc.
Columbia, Tennessee

Resident Days Reported on the Cost Report
for the Period
January 1, 2007, Through June 30, 2008,
and
Resident Accounts for the Period
January 1, 2007, Through December 31, 2007

STATE OF TENNESSEE

COMPTROLLER OF THE TREASURY

Department of Audit

Division of State Audit

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June 18, 2009

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 limited scope examination of the resident days reported on the Medicaid cost report of Rosewood Manor, Inc., Columbia, Tennessee, for the period January 1, 2007, through June 30, 2008, and resident accounts for the period January 1, 2007, through December 31, 2007.

Sincerely,

Arthur A. Hayes, Jr., CPA
Director

AAH/pn
09/036

State of Tennessee

Audit Highlights

Comptroller of the Treasury Division of State Audit

TennCare Report
Rosewood Manor, Inc.
Columbia, Tennessee
Resident Days Reported on the Cost Report
for the Period
January 1, 2007, Through June 30, 2008,
and
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FINDING RECOMMENDING MONETARY REFUND

Improper Billing of Resident Hospital Leave Days
Rosewood Manor, Inc. improperly billed the Medicaid program for 86 hospital leave days when the facility was operating below the 85% occupancy requirement for the period January 1, 2007, through June 30, 2008. As a result of the improper billing of noncovered leave days, the facility should refund $10,580.88 to the State of Tennessee.

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Rosewood Manor, Inc.
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and
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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 of the Treasury 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.

Rosewood Manor, Inc., Columbia, Tennessee, provides both NF-1 and NF-2 services. The facility is owned and operated by Tennessee Health Management, Inc., located in Parsons, Tennessee. The officers/members of the board of directors are as follows:

Mark Davis, Director
Anne G. Vise, Director & Treasurer
James M. Smith, President, Chairman & Director
Jeffery D. Parrish, Secretary

During the examination period, the facility maintained a total of 68 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 34,820 available bed days, the facility reported 15,545 for Medicaid NF-1 residents and 779 for Medicaid NF-2 residents for the fiscal year ended December 31, 2007. Also, the facility reported total operating expenses of $4,315,811 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 (744-0534)	Level II NF (044-5432)
July 1, 2006, through June 30, 2007	$139.07	$145.64
July 1, 2007, through June 30, 2008	$145.88	$162.12

PRIOR EXAMINATION FINDINGS

The 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.

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Independent Accountant's Report

November 6, 2008

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:

We have examined management's assertions, included in its representation letter dated November 6, 2008, that Rosewood Manor, Inc. complied with the following requirements on the "Medicaid Nursing Facility Level 1 Cost Report" for the period January 1, 2007, through June 30, 2008, and to the facility's resident accounts for the period January 1, 2007, through December 31, 2007.

- Resident days reported on the 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 85% occupancy rule and hospital and therapeutic leave rule in effect for the period tested.

- 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 based on our examination.

Our examination was made in accordance with attestation standards established by the American Institute of Certified Public Accountants, and accordingly, included examining on a test basis, evidence about Rosewood Manor, Inc.'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 Rosewood Manor, Inc.'s compliance with specified requirements.

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

- Improper billing of resident hospital leave days

In our opinion, except for the instance of material noncompliance described above, Rosewood Manor, Inc. complied with, in all material respects, the aforementioned requirements for the "Medicaid Nursing Facility Level 1 Cost Report" for the period January 1, 2007, through June 30, 2008, and for resident accounts for the period January 1, 2007, through December 31, 2007.

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., CPA
Director

AAH/pn

FINDING AND RECOMMENDATION

Improper Billing of Resident Hospital Leave Days

Finding

Rosewood Manor, Inc. improperly billed the Medicaid Program for 86 hospital leave days when the facility was operating below the 85% occupancy requirement for the period January 1, 2007, through June 30, 2008.

Chapter 1200-13-1-.06(4)(b) of the *Rules of Tennessee Department of Finance and Administration* states,

> A Level 1 nursing facility (NF) shall be reimbursed . . . for the recipient's bed in that facility during the recipient's temporary absence from that facility in accordance with the following:
>
> > Effective October 1, 2005, reimbursement will be made for up to a total of 10 days per state fiscal year while the resident is hospitalized or absent from the facility on therapeutic leave.
> >
> > The resident intends to return to the NF.
> >
> > At least 85% of all other beds in the NF are occupied at the time of hospital admission or therapeutic absence.

As a result of the improper billing of resident leave days, the facility was overpaid $10,580.88 by the Medicaid Program for the 86 noncovered leave days for the period January 1, 2007, through June 30, 2008.

Recommendation

Rosewood Manor, Inc. should not accumulate or bill the Medicaid Program for hospital leave days when the facility is operating below 85% occupancy. The facility should refund $10,580.88, representing overpayments by the Medicaid Program, to the State of Tennessee as a result of the improper billing of hospital leave days.

Management's Comment

The relevant rule is TennCare Rule 1200-13-1-.06(4)(b), and in relevant portion, states, "At least 85% of all other beds in the [nursing facility] are occupied at the time of the hospital

admission or therapeutic absence." The issue in dispute between Tennessee Health Management, Inc. (THM) and the State appears to be the "*all other beds*" language. In obtaining a calculation that the specific facility was below an 85% threshold on the days where bed hold payments are being disallowed, it appears that auditors have improperly excluded from the calculations of occupied beds those beds unavailable because of bed hold.

It is THM's position that the plain language interpretation of the rule necessitates that beds being held under bed hold payment are in fact "occupied," and therefore included within the 85% calculation. As a legal matter, occupancy includes the concept of possession and both the use of and the intent to use the rights acquired in a thing. Under the construction of bed hold in Tennessee, so long as a bed is being "held" for an individual, it is that individual's right to return to that bed. The bed or beds also are not available for the use of any other individuals who would be prospective or returning residents of the facility. Medicare reimbursement principles also supported the interpretation of occupied as "otherwise unavailable for use."

THM and its facilities acted on their understanding of the proper interpretation of this rule, and believe that the inclusion of bed-hold days as part of "occupied days" is the proper billing of claims based on existing information available to THM interpreting TennCare Rule 1200-13-1-.06(4)(b).

THM requests the audit finding with respect to the disallowed bed hold days be reversed. We request that costs and bed hold days be deemed as allowable costs. THM also reserves any rights it may have under Tennessee law to contest this finding through administrative and/or judicial processes.

Rebuttal

The auditor understands and agrees that a bed reserved for a resident who must be admitted to an acute care hospital facility under the rule cited above must be available for that resident upon his/her return, provided that the absence from the nursing facility does not exceed the 10-day limit. However, the calculation of occupancy in any facility has always been determined by the number of residents actually present in the facility as evidenced by the provider's census records. It is the auditor's interpretation of the intent of this rule that the Program is willing to pay for the reservation of a Medicaid-eligible resident's bed for up to 10 days per year, provided that at least 85% of the other beds in the facility have a resident actually counted as present in the daily census in order to avoid creating a hardship on the resident himself. This 15% cushion also provides the facility more than ample opportunity to reserve said beds without compromising its ability to accept new residents into the facility.

SUMMARY OF MONETARY FINDING AND RECOMMENDATION

Source of Overpayments

Noncovered hospital leave days	$10,580.88

Disposition of Overpayments

Due to the State of Tennessee	$10,580.88