

TENNCARE REPORT

**Americare Long Term Specialty Hospital, LLC
d/b/a Americare Health and Rehabilitation Center
Memphis, Tennessee**

**Cost Report for the Period
July 1, 2008, Through June 30, 2009,
and
Resident Accounts for the Period
July 1, 2008, Through October 31, 2010**



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**Department of Audit
Division of State Audit**



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September 6, 2011

The Honorable Bill Haslam, 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 Americare Long Term Specialty Hospital, LLC, d/b/a Americare Health and Rehabilitation Center, Memphis, Tennessee, for the period July 1, 2008, through June 30, 2009, and resident accounts for the period July 1, 2008, through October 31, 2010. You will note from the independent accountant's report that a disclaimer was issued on the fairness of the presentation of income and expenses reported on the cost report.

Sincerely,

Arthur A. Hayes, Jr., CPA
Director

AAH/pn
11/034

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

TennCare Report
Americare Long Term Specialty Hospital, LLC
d/b/a Americare Health and Rehabilitation Center
Memphis, Tennessee
Cost Report for the Period
July 1, 2008, Through June 30, 2009,
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FINDINGS RECOMMENDING MONETARY REFUNDS

Improper Billing of Resident Leave Days

Americare Health and Rehabilitation Center improperly billed the Medicaid Program for 932 hospital and therapeutic leave days while operating below the 85% occupancy requirement for the period July 1, 2008, through November 30, 2010. As a result of the improper billing of noncovered leave days, the facility should refund \$131,262.20 to the State of Tennessee.

Residents Inappropriately Charged for Covered Services

The facility had charged Medicaid residents' trust fund accounts for haircuts, which are Medicaid covered services. As a result of the inappropriate charges, the facility should reimburse Medicaid residents or their responsible parties a total of \$8,396.00.

FINDINGS NOT RECOMMENDING MONETARY REFUNDS

Failure to Maintain a Surety Bond on Resident Funds

Americare Health and Rehabilitation Center failed to maintain a resident trust fund surety bond as required by law to insure funds held in trust for its residents.

Trust Fund Balance Exceeding the Medicaid Resource Limit

The facility had five residents with trust fund balances exceeding the Medicaid resource limit of \$2,000.

DISCLAIMER ON INCOME AND EXPENSES

Certain records and documentation supporting transactions and account balances were not available for our examination. Other records have not been adequately maintained. Therefore, we were not able to satisfy ourselves about the amounts at which accounts receivable, furniture and equipment, and accounts payable are accurately recorded at June 30, 2009, and the amounts at which income and expenses are accurately reported for the year ended June 30, 2009. Because of the significance of these matters, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on income and expenses reported on the cost report for the year ended June 30, 2009.

**Americare Long Term Specialty Hospital, LLC
d/b/a Americare Health and Rehabilitation Center
Memphis, Tennessee
Cost Report for the Period
July 1, 2008, Through June 30, 2009,
and
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**Americare Long Term Specialty Hospital, LLC
d/b/a Americare Health and Rehabilitation Center
Memphis, Tennessee
Cost Report for the Period
July 1, 2008, Through June 30, 2009,
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July 1, 2008, Through October 31, 2010**

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.

Americare Health and Rehabilitation Center, Memphis, Tennessee, provides both NF-1 and NF-2 services. The facility is owned and operated by Americare Long Term Specialty Hospital Governing Board. The officers/members of the board of directors are as follows:

Steven Brookings, Chairman
 Larry Galloway, Secretary
 Michael Hampton
 Jay Taylor

During the examination period, the facility maintained a total of 237 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 86,505 available bed days, the facility reported 38,336 for Medicaid NF-1 residents and 8,539 for Medicaid NF-2 residents for the year ended June 30, 2009. Also, the facility reported total operating expenses of \$9,314,283 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:

<u>Period</u>	<u>Level I NF (744-0209)</u>	<u>Level II NF (044-5125)</u>
July 1, 2008, through June 30, 2009	\$152.28	\$168.75
July 1, 2009, through June 30, 2010	\$152.94	\$169.84

PRIOR EXAMINATION FINDINGS

This is the first engagement for this facility under current ownership and management.

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
Income and Expenses**

February 18, 2011

The Honorable Bill Haslam, 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 were engaged to examine management's assertions, included in its representation letter dated February 18, 2011, that Americare Long Term Specialty Hospital, d/b/a Americare Health and Rehabilitation Center, complied with the following requirement on the "Medicaid Nursing Facility Level 1 Cost Report" for the period July 1, 2008, through June 30, 2009:

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

As discussed in management's representation letter, management is responsible for ensuring compliance with this requirement.

Accounts receivable and accounts payable aging reports, some cancelled checks and invoices, and federal tax returns were not available for our examination. Other invoices and cancelled checks, depreciation schedule, payroll records, and revenue journals have not been adequately maintained. Therefore, we were not able to satisfy ourselves about the amounts at which accounts receivable, furniture and equipment, and accounts payable are accurately recorded at June 30, 2009, and the amounts at which income and expenses are accurately reported for the year ended June 30, 2009.

Because of the restriction on the scope of our examination discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on management's assertion referred to in the first paragraph.

This report is intended solely for the information and 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,

A handwritten signature in black ink, appearing to read "Arthur A. Hayes, Jr.", written in a cursive style.

Arthur A. Hayes, Jr., CPA
Director

AAH/pn



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**Independent Accountant's Report
Resident Days and Charges**

February 18, 2011

The Honorable Bill Haslam, 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 February 18, 2011, that Americare Long Term Specialty Hospital, d/b/a Americare Health and Rehabilitation Center, complied with the following requirements on the "Medicaid Nursing Facility Level 1 Cost Report" for the period July 1, 2008, through June 30, 2009, and to the facility's resident accounts for the period July 1, 2008, through October 31, 2010.

- 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 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 based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and accordingly, included examining on a test basis, evidence about the compliance of Americare Long Term Specialty Hospital, d/b/a Americare Health and Rehabilitation Center, 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 the compliance of Americare Long Term Specialty Hospital, d/b/a Americare Health and Rehabilitation Center, with specified requirements.

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

- Improper billing of resident leave days
- Residents inappropriately charged for covered services
- Failure to maintain a surety bond on resident funds
- Trust fund balances exceeding the Medicaid resource limit

In our opinion, except for the instances of material noncompliance described above, Americare Long Term Specialty Hospital, d/b/a Americare Health and Rehabilitation Center, complied with, in all material respects, the aforementioned requirements for the "Medicaid Nursing Facility Level 1 Cost Report" for the period July 1, 2008, through June 30, 2009, and for resident accounts for the period July 1, 2008, through October 31, 2010.

This report is intended solely for the information and 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,

A handwritten signature in black ink that reads "Arthur A. Hayes, Jr." The signature is written in a cursive style with a large, prominent initial "A".

Arthur A. Hayes, Jr., CPA
Director

AAH/pn

FINDINGS AND RECOMMENDATIONS

1. Improper Billing of Resident Leave Days

Finding

Americare Health and Rehabilitation Center improperly billed the Medicaid Program for 932 hospital and therapeutic leave days when the facility was operating below the 85% occupancy requirement for the period July 1, 2008, through November 30, 2010.

Chapter 1200-13-01-.03(9) of the *Rules of Tennessee Department of Finance and Administration* states,

A Level 1 nursing facility (NF) shall be reimbursed for a resident's bed in the NF during the resident's temporary absence from the NF as follows:

- (a) Reimbursement shall be made for up to a total of ten (10) days per State fiscal year while the resident is hospitalized or absent from the NF on therapeutic leave. The following conditions must be met in order for a bed hold reimbursement to be made:
 - 1. The resident intends to return to the NF . . .
 - 4. 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 \$131,262.20 by the Medicaid Program for the 932 noncovered leave days for the period July 1, 2008, through November 30, 2010.

Recommendation

Americare Health and Rehabilitation Center should not accumulate or bill the Medicaid Program for hospital or therapeutic leave days when the facility is operating below 85% occupancy. The facility should refund \$131,262.20, representing overpayments by the Medicaid Program, to the State of Tennessee as a result of the improper billing of leave days.

Management's Comment

Management concurs. We will have our billing department prepare adjusted bills for the patients in question. We believed that our certificate of need to move 90 beds reduced our licensed bed count to 147, which would have allowed us to bill for leave days.

Auditor's Comment

The Tennessee Department of Health did approve the certificate of need, reducing the number of licensed nursing home beds from 237 to 147, effective June 20, 2011. The nonallowable leave days noted in the finding were all prior to the effective date of the reduction.

2. Residents Inappropriately Charged for Covered Services

Finding

Americare Health and Rehabilitation Center has inappropriately charged Medicaid residents' trust fund accounts for Medicaid covered services. From July 1, 2008, through October 31, 2010, the facility inappropriately charged 146 residents \$8,396.00 for basic haircuts, a service that is covered in the reimbursable cost of the provider.

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

As a result of the charges for basic haircuts, the resident trust fund accounts for Medicaid residents have been improperly charged \$8,396.00 for this Medicaid covered service.

Recommendation

Americare Health and Rehabilitation Center should not charge Medicaid residents for covered services. The facility should reimburse Medicaid residents or their responsible parties a total of \$8,396.00. In the future, the facility should provide covered services to all Medicaid residents without charge.

Management's Comment

Management concurs. We will reimburse any patients that were charged unless we have documentation that they were provided non-routine hair care services.

3. Failure to Maintain a Surety Bond on Resident Funds

Finding

Americare Health and Rehabilitation Center failed to maintain a surety bond as required by law to protect resident funds. The facility did not have a surety bond to insure individual resident trust fund balances of \$89,622.18.

Section 68-11-906, *Tennessee Code Annotated*, states that “the nursing home shall maintain a surety bond on all funds held in trust for facility residents and shall make an annual, audited account of such funds, available to their residents and for public inspection.”

Failure to maintain a surety bond increases the risk that resident trust funds would not be replaced in the event of misappropriation or theft.

Recommendation

Americare Health and Rehabilitation Center should establish adequate procedures to ensure compliance with applicable laws and regulations for the protection of resident trust funds. The facility should obtain a surety bond to provide coverage for all money held in trust for the residents of the facility.

Management’s Comment

Management does not agree with this finding. We did have a surety bond coverage in full force for the resident trust funds during the period of audit. Management has had the surety bond amended to add the name, “Trust Fund Account.”

Auditor’s Rebuttal

Management originally provided a copy of an employee dishonesty bond that provided coverage up to \$150,000 for the facility. However, the employee dishonesty bond does not cover resident funds held in trust by the facility. The resident trust funds must be explicitly covered by a surety bond. Employee dishonesty bonds will cover losses of facility funds but, unless explicit provisions within the bond state otherwise, they will not cover losses in the resident trust funds.

Auditor’s Comment

Management provided a copy of their amended employee dishonesty bond, dated July 13, 2011, that specifies coverage for the Americare Health and Rehab Center Patient Trust Fund.

4. Trust Fund Balances Exceeding the Medicaid Resource Limit

Finding

Americare Health and Rehabilitation Center had five residents with trust fund balances exceeding the Medicaid resource limit.

Chapter 1240-3-3.05 of the *Rules of Department of Human Services* states, “(1) Applicants for medical assistance are permitted to retain resources in an amount not to exceed the SSI limits. . . . (3)(b) Countable resources for Standard Spend Down and institutionalized individuals who are aged, blind and disabled are determined by using SSI policy at 20 C.F.R. Part 416.”

Paragraph 15,642 of the *Medicare and Medicaid Guide* states, “Resources that may be retained are . . . cash assets up to \$2,000 for an individual.”

As a result, Medicaid had been billed for five residents who do not currently satisfy the financial eligibility requirements.

Recommendation

Americare Health and Rehabilitation Center should notify each resident or the resident’s authorized representative when any resident’s funds approach the \$2,000 Medicaid resource limit. The facility should not bill the Medicaid Program for services rendered to any resident whose resources exceed the Social Security Income limit. Those residents must be billed as private payors until the resources are spent down sufficiently to satisfy the financial eligibility requirements.

Management’s Comment

Management concurs. We will not bill the Medicaid Program for these patients’ services until their balance is below \$2,000.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Improper billing of resident leave days (see finding 1)	\$131,262.20
Residents inappropriately charged for covered services (see finding 2)	<u>\$ 8,396.00</u>
Total	<u>\$139,658.20</u>

Disposition of Overpayments

Due to the State of Tennessee	\$131,262.20
Due to residents or their authorized representatives	<u>\$ 8,396.00</u>
Total	<u>\$139,658.20</u>