



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**CUMBERLAND VILLAGE GENESIS HEALTHCARE
LAFOLLETTE, TENNESSEE**

**Cost Report for the Period
January 1, 2012, through December 31, 2012;
Resident Days for the Period
January 1, 2012, through June 30, 2013;
and Resident Accounts for the Period
October 1, 2012, through September 30, 2013**

Justin P. Wilson, Comptroller



**Division of State Audit
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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
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April 21, 2015

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 Cumberland Village Genesis Healthcare, LaFollette, Tennessee, for the period January 1, 2012, through December 31, 2012; resident days for the period January 1, 2012, through June 30, 2013; and resident accounts for the period October 1, 2012, through September 30, 2013.

Sincerely,

Deborah V. Loveless, CPA
Director

DVL/pn
14/028

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

TennCare Report

Cumberland Village Genesis Healthcare

LaFollette, Tennessee

Cost Report for the Period

January 1, 2012, through December 31, 2012;

Resident Days for the Period

January 1, 2012, through June 30, 2013;

and Resident Accounts for the Period

October 1, 2012, through September 30, 2013

FINDINGS RECOMMENDING MONETARY REFUNDS

Improper Billing of Resident Hospital Leave Days

Cumberland Village Genesis Healthcare improperly billed the Medicaid Program for 21 hospital leave days while the facility was operating below 85% occupancy for the period January 1, 2012, through June 30, 2013. As a result of the billing for noncovered leave days, the facility should refund \$1,979.48 to the State of Tennessee.

Need to Properly Manage Unrefunded Credit Balances

The facility has not established a system to ensure that credit balances on the accounts receivable of deceased or discharged residents were properly managed and promptly refunded. Management failed to refund \$11,463.72 to the State of Tennessee Medicaid Program.

**Cumberland Village Genesis Healthcare
LaFollette, Tennessee
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**Cumberland Village Genesis Healthcare
LaFollette, Tennessee
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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.

Cumberland Village Genesis Healthcare in LaFollette, Tennessee, provides both NF-1 and NF-2 services. The facility is owned and operated by Genesis Healthcare located in Morgantown, West Virginia. The officers/members of the board of directors for Genesis Healthcare, LLC are as follows:

- George V. Hager, Jr., CEO, Assistant Treasurer, Assistant Secretary and Manager
- Robert A. Reitz, Executive Vice President and COO
- Christina Firth, Assistant Secretary
- Thomas DiVittorio, CFO, Treasurer, and Assistant Secretary
- Michael S. Sherman, Senior Vice President-General Counsel, Secretary, and Assistant Treasurer
- J. Richard Edwards, Vice President and Assistant Treasurer
- Arnold M. Whitman, Manager
- Isaac M. Neuberger, Manager
- David Reis, Manager
- Steven E. Fishman, Manager
- Robert Hartman, Manager
- Brian S. Beckwith, Manager

During the examination period, the facility maintained a total of 182 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 66,612 available bed days, the facility reported 42,258 for Medicaid NF-1 residents and 1,313 for Medicaid NF-2 residents for the year ended December 31, 2012. Also, the facility reported total operating expenses of \$11,886,877 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 (744-0435)</u>	<u>Level II NF (044-5276)</u>
January 1, 2012, through June 30, 2012	\$124.45	\$132.35
July 1, 2012, through June 30, 2013	\$131.04	\$134.24

PRIOR EXAMINATION FINDINGS

There has not been a prior report for Cumberland Village Genesis Healthcare in 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 or clinical or medical provisions.



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Independent Accountant's Report

November 7, 2013

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 November 7, 2013, that Cumberland Village Genesis Healthcare complied with the following requirements:

- Income and expenses reported on the "Medicaid Nursing Facility Level 1 Cost Report" for the fiscal year ended December 31, 2012, 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 from January 1, 2012, through June 30, 2013, when residents were hospitalized or on therapeutic leave are in accordance with the bed hold rules.

- Charges to residents and charges to residents' personal funds from October 1, 2012, through September 30, 2013, 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 Cumberland Village Genesis Healthcare's compliance with those requirements and performing other such procedures we considered necessary. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on Cumberland Village Genesis Healthcare's compliance with specified requirements.

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

- Improper billing of resident hospital leave days
- Need to properly manage unrefunded credit balances

In our opinion, except for the instances of material noncompliance described above, Cumberland Village Genesis Healthcare complied with, in all material respects, the aforementioned requirements for income and expenses reported on the Medicaid cost report for the period January 1, 2012, through December 31, 2012; for resident days for the period January 1, 2012, through June 30, 2013; and for resident accounts for the period October 1, 2012, through September 30, 2013.

This report is intended solely for the information and use of the Tennessee General Assembly and the Tennessee Department of Finance and Administration and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

Sincerely,



Deborah V. Loveless, CPA
Director

DVL/pn

FINDINGS AND RECOMMENDATIONS

1. Improper Billing of Resident Hospital Leave Days

Finding

Cumberland Village Genesis Healthcare improperly billed the Medicaid Program for 21 hospital leave days when the facility was operating below the 85% occupancy requirement for the period January 1, 2012, through June 30, 2013.

The rule in effect for the period under examination, Chapter 1200-13-1-.03(9)(a) of the *Rules of the Tennessee Department of Finance and Administration*, states:

- (9) Bed holds. A Level 1 NF shall be reimbursed for a resident's bed in the NF during the resident's temporary absence from the NF as follows:
 1. The resident intends to return to the NF.
 2. For hospital leave days:
 - (i) Each period of hospitalization is physician ordered and so documented in the resident's medical record in the NF; and
 - (ii) The hospital provides a discharge plan for the resident.
 3. Therapeutic leave days, when the resident is absent from the NF on a therapeutic home visit or other therapeutic absence, are provided pursuant to a physician's order.
 4. At least eight-five percent (85%) of all other beds in the NF are occupied at the time of the hospital admission or therapeutic absence. An occupied bed is one that is actually being used by a resident. Beds being held for other residents while they are hospitalized or otherwise absent from the facility are not considered to be occupied beds for purposes of this calculation. Computations of occupancy percentages will be rounded to the nearest percentage point.

As a result of the improper billing of resident leave days, the facility was overpaid \$1,979.48 by the Medicaid Program for the noncovered leave days for the period January 1, 2012, through June 30, 2013.

Recommendation

Cumberland Village Genesis Healthcare should not accumulate or bill the Medicaid Program for NF-1 hospital or therapeutic leave days when the facility is operating below 85% occupancy or when a resident's leave days exceed ten per state fiscal year. As a result of the

billing for 21 noncovered resident leave days, the facility should refund \$1,979.48 to the State of Tennessee.

Management's Comment

Management concurs. Management has retrained all billing staff on the 85% occupancy required at the time of hospital admission or therapeutic absence.

2. Need to Properly Manage Unrefunded Credit Balances

Finding

Cumberland Village Genesis Healthcare failed to ensure that credit balances on the accounts of nine deceased or discharged residents were properly managed and properly refunded. Management did not maintain evidence that former residents or their authorized representatives were notified of money due them. Also, facility management failed to refund the portion of the credit balances due the Medicaid Program.

Section 6402 of the *Affordable Care Act* contains new obligations for health care providers regarding reporting and returning overpayments from the Bureau of TennCare or one of its contractors. Overpayments that are not returned within 60 days from the date the overpayment was identified can trigger a liability under the False Claims Act. The overpayment will be considered an "obligation," as this term is defined at Title 31 US Code §3729(b)(3). The False Claims Act subjects a provider to a fine and treble damages if he knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay money to the federal government.

Section 66-29-113 of *Tennessee Code Annotated* requires anyone holding funds or property presumed abandoned to file a report of that property with the State Treasurer. Chapter 1700-2-1-.19 of the *Rules of Tennessee Department of Treasury* states, "Before filing the annual report of property presumed abandoned, the holder shall exercise due diligence to ascertain the whereabouts of the owner to prevent abandonment from being presumed."

Accounts receivable unrefunded credit balances of \$11,463.72 remain on the accounts of nine former Medicaid residents of Cumberland Village Genesis Healthcare. The entire amount is due to the State of Tennessee Medicaid Program.

Recommendation

Cumberland Village Genesis Healthcare should immediately implement a system to refund credit balances on the accounts of former residents. In addition, the facility should maintain evidence that former residents or their authorized representatives are notified of money

due them. The facility should maintain a record of credit balances with the resident's name, Social Security number, dates of last account activity, the last owner contact, and the amount due the former resident.

The facility should maintain evidence of attempts to contact the owner of the credit balance. Return of first-class mailing sent to the owner's last known address would satisfy the requirement that an attempt to contact the owner had been made, provided the mailing was not returned "undeliverable." If the proper owners cannot be located within five years from the date of last account activity, a report of the abandoned property must be filed with the Tennessee Department of Treasury, Division of Unclaimed Property. Such a report is to be made before May 1 of each year and is to include all property deemed abandoned as of the previous date of December 31. Remittance of the abandoned property is due with the filing of the report. Funds transferred to the Tennessee Department of Treasury must include any accrued interest. Proper claims against the funds will be honored by the Tennessee Department of Treasury.

Cumberland Village Genesis Healthcare should refund \$11,463.72 to the State of Tennessee Medicaid Program. The facility started reviewing the refund and reconciliation process during the auditors' field work.

Management's Comment

Management has made payments and corrections on the unrefunded credit balance.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Improper billing of resident leave days (see finding 1)	\$ 1,979.48
Unrefunded credit balances (see finding 2)	<u>\$11,463.72</u>
Total	<u>\$13,443.20</u>

Disposition of Overpayments

Due to the State of Tennessee	<u>\$13,443.20</u>
Total	<u>\$13,443.20</u>