



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**MABRY HEALTHCARE & REHAB CENTER
GAINESBORO, TENNESSEE
(REVISED NOVEMBER 2016)**

**Cost Reports for the Period
January 1, 2010, Through December 31, 2014;
Resident Days for the Period
July 1, 2012, Through June 30, 2014;
and Resident Accounts for the Period
January 1, 2010, Through August 25, 2014**

Justin P. Wilson, Comptroller



**Division of State Audit
TennCare Section**

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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF STATE AUDIT

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November 18, 2016

The Honorable Bill Haslam, Governor
and

Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

and

Dr. Wendy Long, 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 and agencies providing home and community based waiver services 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 reports of Mabry Healthcare & Rehab Center, Gainesboro, Tennessee, for the periods January 1, 2010, through December 31, 2010; January 1, 2011, through December 31, 2011; January 1, 2012, through December 31, 2012; January 1, 2013, through December 31, 2013; and January 1, 2014, through December 31, 2014; resident days for the period July 1, 2012, through June 30, 2014; and resident accounts for the period January 1, 2010, through August 25, 2014.

Sincerely,

Deborah V. Loveless, CPA
Director

DVL/pn
15/301

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

TennCare Report
Mabry Healthcare & Rehab Center
Gainesboro, Tennessee
Cost Reports for the Period
January 1, 2010, Through December 31, 2014;
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and Resident Accounts for the Period
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FINDINGS RECOMMENDING MONETARY REFUNDS

Nonallowable Expenses Included on the Cost Report

Mabry Healthcare & Rehab Center included a total of \$2,040,589.99 in nonallowable expenses on the Medicaid Level 1 Cost Report for the fiscal years ended December 31, 2010; December 31, 2011; December 31, 2012; December 31, 2013; and December 31, 2014. The nonallowable expenses included \$747,715.25 of unsupported or inadequately supported expenses; \$517,390.59 of expenses unrelated to resident care; \$217,918.00 of penalties and interest levied by the Tennessee Department of Health for delinquent nursing facility assessment fees; \$176,619.57 in gift cards and gift card activation fees; \$134,281.10 of personal and unsupported travel expenses; \$92,308.83 in accounting errors; \$81,070.91 in personal legal fees; \$63,083.00 of excess

compensation for related-party salaries; and \$10,202.74 in late fees and finance charges. As a result of these adjustments, overpayments made to the facility by the Medicaid Program are estimated at \$1,012,326.05, computed from July 1, 2011, through June 30, 2016.

Medicaid Residents Charged More Than Private Residents

Mabry Healthcare & Rehab Center charged Medicaid residents a greater average room and board rate than the private-pay residents. The average daily revenue for Medicaid NF-1 residents was more than the average daily revenue for any other payor type at the same level of care. To ensure that Medicaid residents are not being charged more than private-pay residents for equivalent services, the following adjustments have been added to the private

NF-1 revenue: \$11,242.25 for the fiscal year ended December 31, 2010; \$9,967.49 for the fiscal year ended December 31, 2011; \$13,176.01 for the fiscal year ended December 31, 2012; and \$1,246.84 for the fiscal year ended December 31, 2013. The adjustments to revenue are incorporated into the rate adjustment noted in Finding 1.

Residents Inappropriately Charged for Covered Services and Items

Mabry Healthcare & Rehab Center charged Medicaid residents' accounts for haircuts and shampoos, which are Medicaid-covered services. The facility also charged for disposable diapers, which are Medicaid-covered items. As a result of the inappropriate charges, the facility should reimburse 69 Medicaid residents a total of \$10,257.00 for haircuts and shampoos, and two Medicaid residents a total of \$1,530.92 for the difference in diaper costs.

Deficiencies in Accounting for Resident Trust Funds

Mabry Healthcare & Rehab Center failed to take adequate measures to safeguard resident trust funds due to 20 outstanding checks dating back to June 22, 2001, totaling \$3,272.09. There were also adjusting amounts totaling \$1,572.42 that were being carried forward each month in order to reconcile the resident trust fund account to the bank statement. A total of \$4,844.51 should be remitted to the Tennessee Department of Treasury, Division of Unclaimed Property.

Improper Billing of Residents' Leave Days

Mabry Healthcare & Rehab Center improperly billed the Medicaid Program for 12 hospital leave days while operating below 85% occupancy for the period July 1, 2012, through June 30, 2014, for a total of \$1,735.03 due to the Medicaid Program.

**Mabry Healthcare & Rehab Center
Gainesboro, Tennessee
Cost Reports for the Period
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**Mabry Healthcare & Rehab Center
Gainesboro, 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.

Mabry Healthcare & Rehab Center in Gainesboro, Tennessee, provides both NF-1 and NF-2 services. The facility is owned and operated by Ms. Kathleen M. Graves, located in Gainesboro, Tennessee. The officers/members of the board of directors are as follows:

Kathleen M. Graves, President
 Leneigh Cunningham, Vice President
 Abby Copeland, Secretary/Treasurer

During the examination period, the facility maintained a total of 123 licensed nursing facility beds until September 1, 2014, when the total licensed nursing facility beds decreased to 85. 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.

The following Medicaid bed days were reported for the period covered by this examination:

<u>Period</u>	<u>Available Bed Days</u>	<u>Medicaid NF-1 Days</u>	<u>Medicaid NF-2 Days</u>
January 1, 2010, through December 31, 2010	44,895	22,831	5,345
January 1, 2011, through December 31, 2011	44,895	19,713	3,830
January 1, 2012, through December 31, 2012	45,018	21,317	1,155
January 1, 2013, through December 31, 2013	44,895	21,066	826
January 1, 2014, through December 31, 2014	40,259	20,321	633

The facility reported the following operating expenses for the period covered by this examination:

<u>Period</u>	<u>Operating Expenses</u>
January 1, 2010, through December 31, 2010	\$5,120,157
January 1, 2011, through December 31, 2011	\$5,082,224
January 1, 2012, through December 31, 2012	\$4,929,843
January 1, 2013, through December 31, 2013	\$5,022,095
January 1, 2014, through December 31, 2014	\$5,269,991

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 (744-0362)</u>	<u>Level II NF (044-5272)</u>
July 1, 2009, through June 30, 2010	\$126.39	\$169.38
July 1, 2010, through June 30, 2011	\$125.12	\$177.66
July 1, 2011, through December 31, 2011	\$125.10	\$177.64
January 1, 2012, through June 30, 2012	\$122.12	\$173.35
July 1, 2012, through June 30, 2013	\$151.15	\$178.41
July 1, 2013, through June 30, 2014	\$156.36	\$184.96
July 1, 2014, through June 30, 2015	\$144.48	\$198.87

PRIOR EXAMINATION FINDINGS

Mabry Healthcare & Rehab Center 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 or clinical or medical provisions.



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Independent Accountant's Report

May 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:

We have examined management's assertions, included in its representation letter dated May 21, 2015, that Mabry Healthcare & Rehab Center complied with the following requirements:

- Income and expenses reported on the "Medicaid Nursing Facility Level 1 Cost Report" for the fiscal years ended December 31, 2010; December 31, 2011; December 31, 2012; December 31, 2013; and December 31, 2014, 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 July 1, 2012, through June 30, 2014, 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 January 1, 2010, through August 25, 2014, are in accordance with state and federal regulations.

Page Two
May 21, 2015

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 Mabry Healthcare & Rehab Center's compliance with those requirements and performing other such procedures that we considered necessary under the circumstances. We believe that our examination provides a reasonable basis for our opinion.

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

- Nonallowable expenses included on the cost report
- Medicaid residents charged more than private residents
- Residents inappropriately charged for covered services and items
- Deficiencies in accounting for resident trust funds
- Improper billing of resident leave days

In our opinion, except for the instances of material noncompliance described above, Mabry Healthcare & Rehab Center complied with, in all material respects, the aforementioned requirements for income and expenses reported on the Medicaid cost report for the periods January 1, 2010, through December 31, 2010; January 1, 2011, through December 31, 2011; January 1, 2012, through December 31, 2012; January 1, 2013, through December 31, 2013; and January 1, 2014, through December 31, 2014; for resident days for the period July 1, 2012, through June 30, 2014; and for resident accounts for the period January 1, 2010, through August 25, 2014.

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. Nonallowable Expenses Included on the Cost Report

Finding

Mabry Healthcare & Rehab Center included a total of \$2,040,589.99 in nonallowable expenses on the “Medicaid Nursing Facility Level 1 Cost Report” for the fiscal years ended December 31, 2010; December 31, 2011; December 31, 2012; December 31, 2013; and December 31, 2014.

For 2010, the facility included \$429,533.88 in nonallowable expenses. The nonallowable amount consists of \$239,657.95 of unsupported or inadequately supported expenses; \$118,916.26 for expenses unrelated to resident care or for various personal expenses; \$48,432.77 for gift cards and activation fees; \$12,107.50 for personal legal expenses; \$6,299.09 in accounting errors; \$2,729.20 for personal or unsupported travel expenses; and \$1,391.11 in late fees and finance charges.

For 2011, the facility included \$539,931.62 in nonallowable expenses. The nonallowable amount consists of \$233,298.64 of unsupported or inadequately supported expenses; \$215,520.04 for various personal expenses or expenses unrelated to resident care; \$43,509.27 for gift cards and activation fees; \$28,896.13 for personal legal expenses; \$16,594.31 for personal or unsupported travel expenses; \$1,173.64 in late fees and finance charges; and \$939.59 in accounting errors.

For 2012, the facility included \$449,445.99 in nonallowable expenses. The nonallowable amount consists of \$184,848.36 of unsupported or inadequately supported expenses; \$87,536.69 for various personal expenses or expenses unrelated to resident care; \$82,581.67 in accounting errors; \$54,676.07 for personal or unsupported travel expenses; \$22,362.00 in excess compensation for related-party salaries; \$13,238.28 for personal legal expenses; \$2,177.92 of late fees and finance charges; and \$2,025.00 in gift cards and activation fees.

For 2013, the facility included \$369,691.04 in nonallowable expenses. The nonallowable amount consists of \$96,740.00 of penalties and interest levied by the Tennessee Department of Health for delinquent nursing facility assessment fees; \$63,528.98 for various personal expenses or expenses unrelated to resident care; \$60,281.52 for personal or unsupported travel expenses; \$45,024.21 of unsupported or inadequately supported expenses; \$41,727.11 for gift cards and activation fees; \$40,721.00 in excess compensation for related-party salaries; \$15,713.21 for personal legal expenses; \$3,466.53 in late fees and finance charges; and \$2,488.48 in accounting errors.

For 2014, the facility included \$251,987.46 in nonallowable expenses. The nonallowable amount consists of \$121,178.00 of penalties and interest levied for delinquent nursing facility assessment fees; \$44,886.09 of unsupported or inadequately supported expenses; \$40,925.42 for gift cards and activation fees; \$31,888.62 for various personal expenses or expenses unrelated to resident care; \$11,115.79 for personal legal expenses; and \$1,993.54 in late fees and finance charges.

The following table is a summary of the aforementioned expenses, with a section illustrating the vendor types or recipients of the two broad categories of nonallowable expenses: unsupported or inadequately supported expenses, and expenses unrelated to resident care or personal expenses.

Non-allowable Expenses on Medicaid Cost Reports

	2010	2011	2012	2013	2014	Total
Unsupported and inadequately supported*	\$ 239,657.95	\$ 233,298.64	\$ 184,848.36	\$ 45,024.21	\$ 44,886.09	\$ 747,715.25
Personal expenses and expenses unrelated to resident care*	118,916.26	215,520.04	87,536.69	63,528.98	31,888.62	517,390.59
Gift cards and activation fees	48,432.77	43,509.27	2,025.00	41,727.11	40,925.42	176,619.57
Personal legal expenses	12,107.50	28,896.13	13,238.28	15,713.21	11,115.79	81,070.91
Accounting errors	6,299.09	939.59	82,581.67	2,488.48	-	92,308.83
Personal or unsupported travel expenses	2,729.20	16,594.31	54,676.07	60,281.52	-	134,281.10
Penalties and interest on delinquent nursing facility assessment fees	-	-	-	96,740.00	121,178.00	217,918.00
Late fees or finance charges	1,391.11	1,173.64	2,177.92	3,466.53	1,993.54	10,202.74
Excess compensation for related-party salaries	-	-	22,362.00	40,721.00	-	63,083.00
	\$ 429,533.88	\$ 539,931.62	\$ 449,445.99	\$ 369,691.04	\$ 251,987.46	\$ 2,040,589.99

*** Vendor types for the unsupported / inadequately supported expenses, and for expenses unrelated to resident care or personal expenses**

	2010	2011	2012	2013	2014	Total
J.A.G. (Business run by owner's husband, Jerry A. Graves)	\$ 135,000.00	\$ 102,500.00	\$ 55,000.00	\$ 5,000.00	\$ 25,000.00	\$ 322,500.00
Discount stores (Wal-Mart, etc.)	68,521.88	65,336.03	55,040.86	41,085.60	28,397.43	258,381.80
Missing credit card statements with indeterminable vendors	39,667.07	47,413.74	9,337.67	14,179.31	-	110,597.79
Checks written to cash	32,500.00	40,650.00	18,600.00	1,500.00	1,000.00	94,250.00
Checks written to Kathy Graves	-	36,151.31	-	-	-	36,151.31
Fuel, car maintenance, and car washes	25,664.65	31,068.74	9,344.45	1,501.30	-	67,579.14
Home improvement stores (Lowe's, Home Depot, etc.)	20,021.72	27,049.62	27,007.59	12,748.80	9,620.76	96,448.49
Restaurants	8,588.04	11,389.40	5,394.42	4,402.63	-	29,774.49
Department stores (Dillard's, Chico's, etc.)	8,455.33	31,586.97	15,873.25	2,536.13	-	58,451.68
Horse, western wear, and feed stores (The Winner's Circle Horse Supply, RCC Western Store, Tractor Supply Company, etc.)	6,021.95	2,040.16	17,016.60	674.07	-	25,752.78
Beauty and nail salons	2,254.13	847.22	212.00	-	-	3,313.35
Furniture and appliance stores	1,933.94	14,339.87	21,213.03	-	-	37,486.84
Personal florist expenses	1,584.46	13,902.63	2,862.72	548.98	114.14	19,012.93
Prescription and nutritional supplements	1,381.83	2,072.13	1,506.27	216.34	-	5,176.57
DirecTV and cell phone companies	1,276.41	3,282.41	1,789.81	1,482.92	859.37	8,690.92
Children's stores	742.96	4,010.90	1,098.72	1,192.65	-	7,045.23
Internet purchases (Amazon, PayPal, etc.)	616.13	2,248.03	4,140.06	539.89	-	7,544.11
Tickets to sporting and entertainment venues	-	3,463.36	1,368.61	1,440.00	-	6,271.97
Wedding expenses for owner's daughter	-	1,184.20	-	-	-	1,184.20
College tuition and books for owner's daughter	-	-	11,360.00	10,479.00	11,323.01	33,162.01
Miscellaneous (Other various small categories of vendors)	4,343.71	8,281.96	14,218.99	9,025.57	460.00	36,330.23
	\$ 358,574.21	\$ 448,818.68	\$ 272,385.05	\$ 108,553.19	\$ 76,774.71	\$ 1,265,105.84

Chapter 1200-13-6-.09 of the *Rules of the 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.” Such costs that are not allowable in computing reimbursable costs include but are not limited to:

- costs which are not necessary or related to patient care;
- any fines, penalties, or interest paid on any tax payments or interest charges on overdue payables; and
- travel expenses which are personal in nature, not proper or related to patient care, and auto expenses applicable to non-business uses of the vehicle.

Part 1, Paragraph 2102.3 of the *Provider Reimbursement Manual* 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, for example: cost of travel incurred in connection with non-patient care related purposes.

As a result of the adjustments to allowable expenses above and the adjustment to resident charges noted in Finding 2, the facility’s Medicaid reimbursable rates were reduced as shown in the following tables. Note that the rates were not impacted from July 1, 2011 through June 30, 2012, because the TennCare Bureau had frozen rates during that year based upon what they had been in the previous state fiscal year. As a result, the facility’s December 31, 2010 year-end cost report was not used in establishing the rates in place during the state fiscal year ending June 30, 2012.

<u>Period</u>	<u>NF-1 Original Rate</u>	<u>NF-1 Adjusted Rate</u>	<u>Difference</u>
July 1, 2011, through December 31, 2011	\$125.10	\$125.10	\$ 0.00
January 1, 2012, through June 30, 2012	\$122.12	\$122.12	\$ 0.00
July 1, 2012, through June 30, 2013	\$151.15	\$138.84	\$ (12.31)
July 1, 2013, through June 30, 2014	\$156.36	\$140.40	\$ (15.96)
July 1, 2014, through June 30, 2015	\$144.48	\$132.55	\$ (11.93)
July 1, 2015, through June 30, 2016	\$144.77	\$137.17	\$ (7.60)

<u>Period</u>	<u>NF-2 Original Rate</u>	<u>NF-2 Adjusted Rate</u>	<u>Difference</u>
July 1, 2011, through December 31, 2011	\$177.64	\$177.64	\$ 0.00
January 1, 2012, through June 30, 2012	\$173.35	\$173.35	\$ 0.00
July 1, 2012, through June 30, 2013	\$178.41	\$175.68	\$ (2.73)
July 1, 2013, through June 30, 2014	\$184.96	\$184.96	\$ 0.00
July 1, 2014, through June 30, 2015	\$198.87	\$177.93	\$ (20.94)
July 1, 2015, through June 30, 2016	\$214.80	\$214.80	\$ 0.00

The above rate adjustments will be sent to the Bureau of TennCare for reprocessing of all Medicaid claims for the dates of service from July 1, 2011, through June 30, 2016. Estimated overpayments made to the facility as a result of the expense adjustments and charge adjustments total \$995,917.88 for Medicaid NF-1 services and \$16,408.17 for NF-2 services, totaling \$1,012,326.05.

Recommendation

Mabry Healthcare & Rehab Center should only include allowable expenses on the “Medicaid Nursing Facility Level 1 Cost Report.” All reported expenses should be adequately supported for covered services, related to resident care, and in compliance with other applicable regulations. Personal expenses of the administrator and her immediate family members should not be reported on the facility cost report.

The Bureau of TennCare should reprocess all claims for the period July 1, 2011, through June 30, 2016. The estimated recoupment for the reprocessed Medicaid claims for the period is \$995,917.88 for NF-1 services and \$16,408.17 for NF-2 services, totaling \$1,012,326.05.

Management’s Comment

Management did not respond to this finding.

2. Medicaid Residents Charged More Than Private Residents

Finding

Mabry Healthcare & Rehab Center charged Medicaid residents a greater average room and board rate than the private-pay residents. The average daily revenue for Medicaid NF-1 residents was more than the average daily revenue for any other payor type at the same level of care. To ensure Medicaid residents are not being charged more than private-pay residents for equivalent services, the following adjustments have been added to the private NF-1 revenue:

\$11,245.25 for the fiscal year ended December 31, 2010; \$9,967.49 for the fiscal year ended December 31, 2011; \$13,176.01 for the fiscal year ended December 31, 2012; and \$1,246.84 for the fiscal year ended December 31, 2013.

Chapter 1200-13-01-.03(3)(f) of the *Rules of the Tennessee Department of Finance and Administration* states, “Regardless of the reimbursement rate established for a Level 1 NF, no Level 1 NF may charge TennCare Enrollees an amount greater than the amount per day charge to private paying patients for equivalent accommodations and services.”

The adjustment to revenue is incorporated in the rate adjustment noted in Finding 1.

Recommendation

Mabry Healthcare & Rehab Center should not charge Medicaid residents more than private-pay residents for equivalent accommodations and services.

Management’s Comment

Management did not respond to this finding.

3. Residents Inappropriately Charged for Covered Services and Items

Finding

Mabry Healthcare & Rehab Center has inappropriately charged Medicaid residents’ trust fund accounts for haircuts and shampoos, which are Medicaid-covered services. From January 1, 2010, through August 25, 2014, the facility inappropriately charged 69 residents a total of \$10,257.00 for basic haircuts and shampoos.

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.”

Also, the facility inappropriately charged Medicaid residents’ trust fund accounts for adult diapers, which are Medicaid-covered items. From January 1, 2010, through July 31, 2014, the facility inappropriately charged two residents the full cost of non-stocked diapers that were specifically requested by the residents. The facility is only allowed to charge the residents the difference in cost between the diapers stocked by the facility and the diapers specifically requested by the residents. For both residents that were being charged for diapers, the cost of the stocked diaper exceeded that of the diaper requested by the residents, so the entire cost of \$1,530.92 was inappropriately charged to the residents.

No. 93-2 of the *Medicaid Bulletin* states that “. . . diapers, cloth and/or disposable, is an NF responsibility and considered a covered service.”

No. 94-1 of the *Medicaid Bulletin* states, “For covered items, the NF may charge no more than the difference between the cost of an item and/or service it provides and one specifically requested by name by the resident.”

As a result of the inappropriate charges, the resident trust fund accounts for Medicaid residents have been incorrectly charged \$11,787.92 for Medicaid-covered services and items.

Recommendation

Mabry Healthcare & Rehab Center should not charge Medicaid residents for covered services. In the future, the facility should provide covered services to all Medicaid residents without charge. Also, the facility should not charge Medicaid residents for covered items. The facility can only charge residents the difference between the cost of the diaper stocked by the facility and the cost of the specific diaper requested by the resident. Mabry Healthcare & Rehab Center should reimburse Medicaid residents or their authorized representatives a total of \$11,787.92.

Management’s Comment

Management did not respond to this finding.

4. Deficiencies in Accounting for Resident Trust Funds

Finding

Mabry Healthcare & Rehab Center failed to take adequate measures to safeguard resident trust funds as required by federal and state laws. The resident trust fund is not considered accounted for properly due to 20 outstanding checks totaling \$3,272.09, dating from June 22, 2001, through December 23, 2011.

Three adjusting amounts totaling \$1,572.42 are being carried forward each month by facility personnel to reconcile the account. The reconciliation does not balance to the bank account without these three adjusting amounts. The facility did not retain the records to determine to whom in the resident trust fund these amounts are owed in order to refund the monies to the proper residents or their authorized representatives.

Paragraph 22,163.420(b)(1) of the *Medicare and Medicaid Guide* requires the facility to establish and maintain a system that “. . . (i) assures a full and complete accounting of clients’ personal funds entrusted to the facility.”

Paragraph 22,163.10(c)(2) of the *Medicare and Medicaid Guide* further states,

the facility must hold, safeguard, manage and account for the personal funds of the resident deposited with the facility . . . 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.

Section 71-6-117, *Tennessee Code Annotated* (TCA), provides for penalties in cases where the improper use of funds paid by a government agency to an adult or to a caretaker for the adult's use is shown to be willful.

Section 66-29-113 of TCA 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 the 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."

As a result of the years of outstanding checks and reconciling amounts that are being carried forward, the facility's bank account for trust funds is perpetually out of balance.

Recommendation

Mabry Healthcare & Rehab Center should ensure that adequate measures are in place to safeguard resident trust funds. The facility should ensure resident trust funds are accounted for properly and that bank reconciliations are accurately performed. The facility should remit \$4,844.51 to the Tennessee Department of Treasury, Division of Unclaimed Property.

Management's Comment

Management did not respond to this finding.

5. Improper Billing of Resident Leave Days

Finding

Mabry Healthcare & Rehab Center improperly billed the Medicaid Program for 12 hospital or therapeutic leave days when the facility was operating below 85% occupancy. As a result of the billing for noncovered resident days, the facility should refund \$1,735.03 to the State of Tennessee.

Chapter 1200-13-1-.03(9)(a) of the *Rules of Tennessee Department of Finance and Administration* states:

A Level I 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:

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 resident intends to return to the NF.

At least eighty-five percent (85%) of all other beds in the NF are occupied at the time of 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.

As a result of the improper billing of resident days, the facility was overpaid \$1,735.03 by the Medicaid Program for 12 noncovered days for the period July 1, 2012, through June 30, 2014.

Recommendation

Mabry Healthcare & Rehab Center should not accumulate or bill the Medicaid Program for hospital and therapeutic leave days when the facility is operating below 85% occupancy. The facility should refund \$1,735.03, 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 did not respond to this finding.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Rate reduction (see findings 1 and 2)	\$ 1,012,326.05
Residents inappropriately charged for covered services (see finding 3)	\$ 11,787.92
Deficiencies in accounting for the resident trust fund (see finding 4)	\$ 4,844.51
Improper billing of resident leave days (see finding 5)	<u>\$ 1,735.03</u>
Total	<u>\$1,030,693.51</u>

Disposition of Overpayments

Due to the State of Tennessee	\$1,014,061.08
Due to residents or their authorized representatives	<u>\$ 16,632.43</u>
Total	<u>\$1,030,693.51</u>