



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**BROOKHAVEN MANOR
KINGSPORT, TENNESSEE**

**Cost Report for the Period
January 1, 2014, Through December 31, 2014;
Resident Days for the Period
January 1, 2014, Through June 30, 2015;
and Resident Accounts for the Period
October 1, 2014, Through September 30, 2015**

Justin P. Wilson, Comptroller



**Division of State Audit
TennCare Section**

DEBORAH V. LOVELESS, CPA, CGFM, CGMA
Director

GREGG S. HAWKINS, CPA, CFE
Assistant Director

REGINA DOBBINS, CPA, CFE, CGFM
Audit Manager

Kathy McClinton, CPA
In-Charge Auditor

Alla Cox, CFE
Tammy Fruscione, CGFM
Staff Auditors

Amy Brack
Editor

Amanda Adams
Assistant Editor

Comptroller of the Treasury, Division of State Audit
1500 James K. Polk State Office Building
505 Deaderick Street
Nashville, TN 37243-1402
(615) 401-7897

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

SUITE 1500, JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7897
FAX (615) 532-2765

February 27, 2017

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 report of Brookhaven Manor, Kingsport, Tennessee, for the period January 1, 2014, through December 31, 2014; resident days for the period January 1, 2014, through June 30, 2015; and resident accounts for the period October 1, 2014, through September 30, 2015.

Sincerely,

Deborah V. Loveless, CPA

Director

DVL/pn
16/309

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

TennCare Report
Brookhaven Manor
Kingsport, Tennessee
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FINDINGS RECOMMENDING MONETARY REFUNDS

Improper Management of Credit Balances

Brookhaven Manor failed to ensure that credit balances on the accounts of deceased and discharged residents are promptly reported and that correct claims are submitted. Accounts receivable unrefunded credit balances totaling \$53,720.47, due to the Medicaid Program, remain on the accounts of 40 former residents of the facility. There is also a balance of \$739.26 that is due to one resident or an authorized representative.

Nonallowable Expenses Included on the Cost Report

Brookhaven Manor included \$2,045.38 in nonallowable expenses on the Medicaid cost report for the year ended December 31, 2014. The nonallowable expenses included unsupported expenses, late fees, and fines. As a result of these adjustments, overpayments made to the facility by the Medicaid Program are estimated at \$1,318.04, computed from July 1, 2015, through June 30, 2016.

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**Brookhaven Manor
Kingsport, 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.

Brookhaven Manor, in Kingsport, Tennessee, provides both NF-1 and NF-2 services. The facility is owned and operated by Epic Group, LC, located in Myrtle Beach, South Carolina. The officers are as follows:

W. Stewart Swain, Manager/Member
L. P. Herzog, Manager/Member

During the examination period, the facility maintained a total of 180 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 65,700 available bed days, the facility reported 32,861 for Medicaid NF-1 residents and 0 for Medicaid NF-2 residents for the year ended December 31, 2014. Also, the facility reported total operating expenses of \$9,882,381 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 (744-0460)</u>	<u>Level II NF (044-5174)</u>
July 1, 2013, through June 30, 2014	\$147.44	\$141.76
July 1, 2014, through June 30, 2015	\$157.34	\$145.96
July 1, 2015, through June 30, 2016	\$173.53	\$147.57

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 or clinical or medical provisions.



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SUITE 1500, JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
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FAX (615) 532-2765

Independent Accountant's Report

November 5, 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 November 5, 2015, that Brookhaven Manor 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, 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 January 1, 2014, through June 30, 2015, 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, 2014, through September 30, 2015, 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 Brookhaven Manor'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 does not provide a legal determination on Brookhaven Manor's compliance with specified requirements.

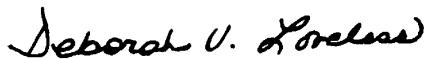
Our examination disclosed the following instances of material noncompliance applicable to state and federal regulations:

- improper management of credit balances, and
- nonallowable expenses included on the cost report.

In our opinion, except for the instances of material noncompliance described above, Brookhaven Manor complied with, in all material respects, the aforementioned requirements for income and expenses reported on the Medicaid cost report for the period January 1, 2014, through December 31, 2014; for resident days for the period January 1, 2014, through June 30, 2015; and for resident accounts for the period October 1, 2014, through September 30, 2015.

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 Management of Credit Balances

Finding

Brookhaven Manor has not established a system to ensure that credit balances on the accounts of deceased or discharged residents are properly managed and promptly refunded. Management did not provide evidence of attempts to notify the Medicaid Program to recoup credit balances and did not maintain evidence that a former resident or authorized representative was notified of refunds due them.

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 in Title 31, *United States Code*, Section 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(a) of *Tennessee Code Annotated* requires that “every person holding funds or other property, tangible or intangible, presumed abandoned under this part shall report to the treasurer. . . .” Chapter 1700-2-1-.19(1) 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.”

Unrefunded credit balances totaling \$54,459.73 remain on the accounts receivable ledger of 40 former Medicaid residents of Brookhaven Manor. Of this amount, \$53,720.47 is due to the Medicaid Program, and \$739.26 is due one resident or authorized representative.

Recommendation

Brookhaven Manor should implement an adequate system to promptly refund credit balances on the accounts of former residents. Additionally, the facility’s management should maintain evidence of attempts to contact the owner of the credit balance. In case 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.

Management's Comment

We have updated our procedures in order to properly maintain timely refunds of credit balances on the accounts of former residents. These updated procedures are detailed in the refund policy enclosed with this letter. After researching/reviewing the accounts, some credits were actually due to account resident liability adjustments. Once these adjustments were made, money was actually due back to the residents, not Medicaid. All credit balances that were reported in the audit have been refunded appropriately to all parties. A detailed listing of each credit balance and resolutions is also enclosed with this letter.

Auditor Comment

At the time of the release of this report, it was verified that all but \$7,371.30 due to residents or their authorized representatives and \$5.00 due to Medicaid had been refunded to the correct parties.

2. Nonallowable Expenses Included on the Cost Report

Finding

Brookhaven Manor included \$2,045.38 of nonallowable expenses on the "Medicaid Nursing Facility Level 1 Cost Report" for the fiscal year ended December 31, 2014. The nonallowable expenses include \$1,568.98 in unsupported expenses, and \$476.40 in late fees and fines.

Chapter 1200-13-6.09(4) 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, the following:

- any fines, penalties, or interest paid on any tax payments or interest charges on overdue payables;
- costs which are not necessary or related to patient care.

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

<u>Period</u>	<u>Original Rate</u>	<u>Adjusted Rate</u>	<u>Difference</u>
July 1, 2015, through June 30, 2016	\$173.53	\$173.49	\$ (0.04)

The above rate adjustments will be sent to the Bureau of TennCare for reprocessing of all Medicaid claims for the dates of service July 1, 2015, through June 30, 2016. Estimated overpayments made to the facility as a result of the expense adjustments are \$1,318.04.

Recommendation

Brookhaven Manor should include only allowable expenses on the Medicaid cost report. All reported expenses should be adequately supported for covered services related to resident care and in compliance with other applicable regulations.

Management's Comment

We have reviewed the list of nonallowable expenses included on the cost report and concur with the finding.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Unrefunded credit balances (see finding 1)	\$ 54,459.73
Rate reduction (see finding 2)	<u>\$ 1,318.04</u>
Total	<u>\$ 55,777.77</u>

Disposition of Overpayments

Due to the State of Tennessee	\$55,038.51
Due to residents or their authorized representatives	<u>\$ 739.26</u>
Total	<u>\$55,777.77</u>