



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

**MAYFIELD REHABILITATION CENTER
SMYRNA, TENNESSEE**

**Cost Report for the Period
January 1, 2014, Through December 31, 2015;
Resident Days for the Period
July 1, 2014, Through December 31, 2015;
and Resident Accounts for the Period
November 1, 2015, Through October 31, 2016**

Justin P. Wilson, Comptroller



**Division of State Audit
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STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
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June 13, 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 Mayfield Rehabilitation Center in Smyrna, Tennessee, for the period January 1, 2014, through December 31, 2015; resident days for the period July 1, 2014, through December 31, 2015; and resident accounts for the period November 1, 2015, through October 31, 2016.

Sincerely,

A handwritten signature in black ink that reads "Deborah V. Loveless".

Deborah V. Loveless, CPA
Director

DVL/pn
17/266

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

TennCare Report
Mayfield Rehabilitation Center
Smyrna, Tennessee
Cost Report for the Period
January 1, 2014, Through December 31, 2015;
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FINDINGS RECOMMENDING MONETARY REFUNDS

Nonallowable Expenses Included on the Cost Report

Mayfield Rehabilitation Center included \$86,830.00 of nonallowable expenses on the “Medicaid Nursing Facility Level 1 Cost Report” for the fiscal year ended December 31, 2014, and \$92,182.71 of nonallowable expenses on the Medicaid cost report for the fiscal year ended December 31, 2015. The adjustment to allowable costs consisted of marketing salaries, marketing expenses, expenses charged to the wrong facility, physical therapy, unsupported expenses, expenses that were expensed twice, and late fees. As a result of these adjustments, overpayments made to the facility by the Medicaid Program are estimated at \$207,238.99, computed from July 1, 2015, through June 30, 2017 (page 6).

Improper Management of Credit Balances

Mayfield Rehabilitation Center failed to ensure that credit balances on the accounts of deceased and discharged residents were promptly reported and that correct claims were submitted. Accounts receivable unrefunded credit balances totaling \$70,842.60 remain on the accounts receivable ledgers of 76 former Medicaid resident of the facility. Of this amount, \$52,670.36 is due to the Medicaid Program, and \$18,172.24 is due to 9 residents or their authorized representatives (page 8).

**Mayfield Rehabilitation Center
Smyrna, Tennessee
Cost Report for the Period
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**Mayfield Rehabilitation Center
Smyrna, Tennessee
Cost Report for the Period
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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.

Mayfield Rehabilitation Center, in Smyrna, Tennessee, operates and provides both NF-1 and NF-2 services. The facility is owned by Omega Healthcare Investors, Inc., located in Hunt Valley, Delaware. It is operated by Diversicare Healthcare Services, Inc., located in Brentwood, Tennessee. The officers/members of the board of directors for Diversicare Healthcare Services, Inc. are as follows:

Wallace E. Olson, Director
 Kelly J. Gill, President and CEO
 Leslie D. Campbell, Executive Vice President and COO
 James R. McKnight, Jr., EVP, CFO, and Secretary
 Matthew Weishaar, Senior Vice President and Assistant Secretary

During the examination period, the facility maintained a total of 125 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 45,625 available bed days, the facility reported 26,985 for Medicaid NF-1 residents and 1,806 for Medicaid NF-2 residents for the year ended December 31, 2014. Also, the facility reported total operating expenses of \$7,634,534 for the fiscal year ended December 31, 2014. Of the 45,625 available bed days for the fiscal year ended December 31, 2015, the facility reported 25,294 for Medicaid NF-1 residents and 741 for Medicaid NF-2 residents. The facility reported total operating expenses of \$7,903,595 for the year ended December 31, 2015.

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 (744-0450)</u>	<u>Level II NF (044-5160)</u>
July 1, 2013, through June 30, 2014	\$147.57	\$161.89
July 1, 2014, through June 30, 2015	\$151.88	\$155.62
July 1, 2015, through June 30, 2016	\$171.71	\$178.21
July 1, 2016, through June 30, 2017	\$174.58	\$184.76

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 or clinical or medical provisions.



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Independent Accountant's Report

December 22, 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:

We have examined management's assertions, included in its representation letter dated December 22, 2016, that Mayfield Rehabilitation Center 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, and December 31, 2015, 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, 2014, through December 31, 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 November 1, 2015, through October 31, 2016, 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 Mayfield Rehabilitation 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, and
- improper management of credit balances.

In our opinion, except for the instances of material noncompliance described above, Mayfield Rehabilitation Center 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, 2015; for resident days for the period July 1, 2014, through December 31, 2015; and for resident accounts for the period November 1, 2015, through October 31, 2016.

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

Mayfield Rehabilitation Center included \$86,830.00 of nonallowable expenses on the “Medicaid Nursing Facility Level 1 Cost Report” for the fiscal year ended December 31, 2014. The nonallowable expenses for 2014 consisted of \$76,745.32 of disallowed marketing salaries; \$9,282.09 in marketing expenses; \$558.00 for charges to the wrong facility; \$116.93 for unsupported expenses; \$75.00 for physical therapy; \$40.23 in late fees; and \$12.43 that was expensed twice.

Mayfield Rehabilitation Center included \$92,182.71 of nonallowable expenses on the Medicaid cost report for the fiscal year ended December 31, 2015. The nonallowable expenses for 2015 consisted of \$82,161.07 of disallowed marketing salaries; \$7,771.07 in marketing expenses; \$1,518.61 for charges to the wrong facility; \$593.96 for unsupported expenses; and \$138.00 that was expensed twice.

Chapter 1200-13-6-.09(4) of the *Rules of 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.” It also specifies that unnecessary costs and costs unrelated to patient care be deducted from allowable expenses. Such costs that are not allowable in computing reimbursable costs include

- any fines, penalties, or interest paid on any tax payments or interest charges on overdue payables;
- advertising costs incurred in seeking to increase patient population or utilization of the provider’s facilities by the general public;
- travel expenses which are personal in nature, not proper or related to patient care;
- costs that are not necessary or related to patient care; and
- any other costs that are identified and specified as nonallowable by the Medicaid Program manuals, or federal or state rules or regulations.

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 cost of travel incurred in connection with non-patient care related purposes.

As a result of the adjustments to allowable expenses above, 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	\$171.71	\$168.82	\$(2.89)
July 1, 2015, through June 30, 2016	\$174.58	\$169.47	\$(5.11)

Estimated overpayments made to the facility as a result of the above adjustment total \$207,239.00, computed from July 1, 2015, through June 30, 2017.

Recommendation

Mayfield Rehabilitation Center should include only allowable expenses on the "Medicaid Nursing Facility Level 1 Cost Report." All reported expenses should be adequately supported, for covered services, related to patient care, and in compliance with other applicable regulations. Medicaid claims for the dates of service July 1, 2015, through June 30, 2017, should be reprocessed. The estimated recoupment for the reprocessed claims is \$207,239.00.

Management's Comment

We disagree with the audit approach used for the salaries and related expenses deemed "marketing" per the audit findings. While we agree that some of the salaries and expenses identified as non-patient are related by virtue of the marketing functions performed by the various employees, we disagree with the approach that all of the expenses incurred by the various employees should be disallowed. Based on the employees' job duties, there are many functions performed that would be deemed patient-related, such as patient intake, admissions coordination, patient liaison, and various social service functions.

Additionally, the central office cost report includes a functional allocation to all Diversicare Tennessee facilities. Historically, the marketing functions were maintained at the regional level, and as part of the central office cost report preparation, a historical percentage was adjusted from allowable costs for marketing. However, after examining the audit findings at the facility, these functions are performed in part by the employees at the facility level. We believe that the central office adjustments should also be taken into consideration as an offset to the facility-level marketing disallowance.

Rebuttal

During field work, the administrator confirmed with auditors that the employees whose salaries and related expenses were disallowed performed marketing duties exclusively. No evidence was provided that any patient-related functions were performed by the employees in question.

Home office marketing offsets, if any, would only be applicable to marketing functions performed at the home office, not at the facility level. As such, any adjustments made to home office costs would not be considered to apply to a specific subsidiary facility. Marketing costs, or any other nonallowable costs, are designed by rule to be removed on Section G of the provider cost report, never on a home office report.

Management intends to request an appeal hearing from the Department of Finance and Administration.

2. Improper Management of Credit Balances

Finding

Mayfield Rehabilitation Center 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 their authorized representative had been 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), *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 \$70,842.60 remain on the accounts receivable ledgers of 76 former Medicaid residents of Mayfield Rehabilitation Center, of which \$52,670.36 is due to the Medicaid Program and \$18,172.24 is due to 9 residents or their authorized representatives.

Recommendation

Mayfield Rehabilitation Center 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 owner 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

Most of these balances have already been refunded to the proper parties and the remaining will be done soon. We were not aware that the managed Medicaid providers would not process these refunds in the same manner as Medicaid. We are updating our processes to ensure that all refunds are processed in a timely manner.

Auditor's Comment

Management has not provided any supporting documentation to show that credit balances were refunded to the Medicaid Program or to former residents. As a result, auditors reserve the right to revisit the facility and examine supporting evidence for the refunded amounts within six months of the release of this report. Management should also provide evidence of all refunded balances made to date.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Rate reduction (see Finding 1)	\$ 207,238.99
Unrefunded Credit Balances (see Finding 2)	<u>\$ 70,842.60</u>
Total	<u>\$ 278,081.59</u>

Disposition of Overpayments

Due to the State of Tennessee	\$ 259,909.35
Due to residents or their authorized representatives	<u>\$ 18,172.24</u>
Total	<u>\$ 278,081.59</u>