Tennessee Comptroller of the Treasury

Medicaid Examination

Nashville Center for Rehabilitation and Healing
Nashville, Tennessee

Cost Reports and Resident Days

January 1, 2020, Through December 31, 2020

Resident Accounts

October 1, 2020, Through September 30, 2021

Jason E. Mumpower
Comptroller of the Treasury

Division of State Audit

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TENNESSEE
COMPTROLLER
OF THE TREASURY

Tennessee Comptroller of the Treasury

Jason E. Mumpower
Comptroller

June 16, 2022

The Honorable Bill Lee, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
Mr. Stephen Smith, Deputy Commissioner
Division 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 Medicare and Medicaid Supplemental Cost Reports of Nashville Center for Rehabilitation and Healing in Nashville, Tennessee, for the period January 1, 2020, through December 31, 2020; resident days for the period January 1, 2020, through December 31, 2020; and resident accounts for the period October 1, 2020, through September 30, 2021.

Sincerely,

Katherine J. Stickel

Katherine J. Stickel, CPA, CGFM, Director
Division of State Audit

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Division of State Audit

Nashville Center for Rehabilitation and Healing
Nashville, Tennessee
Medicaid Examination

Our mission is to make government work better.

EXAMINATION HIGHLIGHTS

Examination Scope
Cost Report for the Period
January 1, 2020, Through December 31, 2020;
Resident Days for the Period
January 1, 2020, Through December 31, 2020;
and Resident Accounts for the Period
October 1, 2020, Through September 30, 2021

FINDINGS RECOMMENDING MONETARY REFUNDS

Nashville Center for Rehabilitation and Healing failed to properly manage resident trust funds by commingling resident and facility funds, not properly crediting residents' trust fund accounts, and not ensuring that outstanding checks had been properly delivered to recipients; these issues resulted in $54,101.55 being due to residents or their authorized representatives and $45,521.97 needing to be transferred from the operations account to the resident trust fund account
Nashville Center for Rehabilitation and Healing has not properly managed the resident trust fund account. Specifically, the facility maintained residents' funds totaling $45,521.97 in the facility's operating account and did not properly credit the residents' individual trust fund accounts, resulting in an overpayment of $215.00. Additionally, the facility did not perform due diligence to ensure that outstanding checks totaling $53,886.55 had been properly delivered to recipients and reissued when necessary.

Nashville Center for Rehabilitation and Healing failed to promptly refund accounts receivable credit balances of 10 former residents totaling $9,270.07
Nashville Center for Rehabilitation and Healing has not established a system to properly manage and promptly refund credit balances on the accounts of deceased or discharged residents. Management did not maintain evidence that staff notified former residents or their authorized representative of refunds due them. Management failed to refund $9,270.07 due to 10 former Medicaid residents or their authorized representatives.

FINDING NOT RECOMMENDING MONETARY REFUND

Nashville Center for Rehabilitation and Healing included $59,367.94 in nonallowable expenses on the Medicare Cost Report

Nashville Center for Rehabilitation and Healing included $59,367.94 of nonallowable expenses on the Medicare Cost Report for the year ended December 31, 2020. The nonallowable expenses consist of $55,516.12 in unsupported expense; $2,130.09 in nonallowable marketing; $1,469.00 in personal expense; $220.00 in resident replacement items; and $32.73 in late fees.

The $59,367.94 total of nonallowable expenses will not have an effect on the Medicaid reimbursement rates since 2020 was a non-rebase year.

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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.

Nashville Center for Rehabilitation and Healing

Nashville Center for Rehabilitation and Healing in Nashville, Tennessee, provides both NF-1 and NF-2 services. The facility is owned by Nashville Ventures TN LLC, a Limited Liability Company in Atlanta, GA. The following are the owners of Nashville Center for Rehabilitation and Healing and Nashville Ventures TN LLC:

Mark Friedman
Yossie Zucker
Akiva Rudner
Shaindl Shur
Neil Einhorn
Steven Sax
Eliezer Schwartz

During the examination period, the facility maintained a total of 119 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 43,554 available bed days for the year ended December 31, 2020, the facility reported 21,207 for Medicaid residents. Also, the facility reported total operating expenses of $12,474,563 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:

Period	NF Rate Q03-5305
January 1, 2020, through June 30, 2020	$237.57
July 1, 2020, through December 31, 2020	$234.62
January 1, 2021, through June 30, 2021	$236.97
July 1, 2021, through December 31, 2021	$248.33

EXAMINATION SCOPE

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.

PRIOR EXAMINATION FINDINGS

There has not been an examination performed within the last five years.

Jason E. Mumpower
Comptroller

Independent Accountant's Report

February 28, 2022

The Honorable Bill Lee, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
Mr. Steven Smith, Deputy Commissioner
Division 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 28, 2022, that Nashville Center for Rehabilitation and Healing complied with the following requirements:

- Income and expenses reported on the Medicare and Medicaid Supplemental Cost Reports for the fiscal year ended December 31, 2020, are reasonable, allowable, and in accordance with state and federal rules, regulations, and reimbursement principles.
- Resident days reported on the Medicare and Medicaid Supplemental Cost Reports have been counted in accordance with state regulations. Medicaid resident days billed to the state from January 1, 2020, through December 31, 2020, when residents were discharged are in accordance with the rules.
- Charges to residents and charges to residents' personal funds from October 1, 2020, through September 30, 2021, 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether management's assertions are fairly stated, in all material respects. An examination involves performing procedures to obtain evidence about management's assertions. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of management's assertions, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our modified opinion. Our examination does not provide a legal determination on the entity's compliance with specified requirements.

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

- Nashville Center for Rehabilitation and Healing failed to properly manage resident trust funds by commingling resident and facility funds, not properly crediting residents' trust fund accounts, and not ensuring that outstanding checks had been properly delivered to recipients; these issues resulted in $54,101.55 being due to residents or their authorized representatives and $45,521.97 needing to be transferred from the operations account to the resident trust fund account.
- Nashville Center for Rehabilitation and Healing failed to promptly refund accounts receivable credit balances of 10 former residents totaling $9,270.07.
- Nashville Center for Rehabilitation and Healing included $59,367.94 in nonallowable expenses on the Medicare Cost Report.

In our opinion, except for the instances of material noncompliance described above, management's assertions that Nashville Center for Rehabilitation and Healing complied with the aforementioned requirements for income and expenses reported on the Medicare and Medicaid Supplemental Cost Reports for the period January 1, 2020, through December 31, 2020; resident days for the period January 1, 2020, through December 31, 2020; and resident accounts for the period October 1, 2020, through September 30, 2021, are fairly stated in all material respects.

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,

Katherine J. Stickel

Katherine J. Stickel, CPA, CGFM, Director
Division of State Audit

FINDINGS AND RECOMMENDATIONS

Finding 1 – Nashville Center for Rehabilitation and Healing failed to properly manage resident trust funds by commingling resident and facility funds, not properly crediting residents' trust fund accounts, and not ensuring that outstanding checks had been properly delivered to recipients; these issues resulted in $54,101.55 being due to residents or their authorized representatives and $45,521.97 needing to be transferred from the operations account to the resident trust fund account

Nashville Center for Rehabilitation and Healing failed to take adequate measures to safeguard resident trust funds as required by federal and state laws. The resident trust fund (RTF) is not considered accounted for properly due to the following exceptions:

- The facility commingled RTF account and operating account funds. As of September 30, 2021, the facility maintained residents' funds totaling $45,521.97 in their operating account instead of the RTF account, including $16,803.82 that was improperly maintained in the operating account for more than 90 days. These funds included portions of residents' Social Security benefits designated for residents' monthly allowances and residents' dental insurance premiums or similar items. The facility identified these funds through monthly bank reconciliations but failed to promptly return the funds to the RTF account as soon as they were identified. Additionally, the residents did not accrue interest on funds maintained in the operating account.

Amounts Not Transferred From Operating to RTF Account as of September 30, 2021

RTF Bank Account Reconciliation Date	Transfer Amount Due From Operating to RTF Account
2/28/2021	$3,542.88
6/30/2021	$13,260.94
7/31/2021	$2,391.79
8/31/2021	$5,312.15
9/30/2021	$21,014.21
Total	$45,521.97

- For one of five individual resident trust fund account balances tested (20%), the resident's Social Security benefits withheld by the facility exceeded the resident's liability amount, resulting in overpayments totaling $215. (Resident liability is the amount that residents receiving Medicaid are required to contribute to the cost of their care as determined by TennCare.) These overpaid amounts were maintained in the facility's operating account and were not credited to the resident's individual RTF account ledger. As of October 12, 2021, $215 had not been credited back to residents or designated to be transferred back to the RTF account and had been held in the operating account between 39 and 162 days. Additionally, the resident did not accrue interest on funds that should have been credited to their account.

Overpayments Maintained in Operating Account

Resident	Date	Amount Not Credited Back to Resident as of 10/12/2021	No. of Days Held in Operating Account as of 10/12/2021
Resident # 4	5/3/2021	$115.00	162
Resident # 4	6/3/2021	$25.00	131
Resident # 4	7/2/2021	$25.00	102
Resident # 4	8/3/2021	$25.00	70
Resident # 4	9/3/2021	$25.00	39
	Total:	$215.00	

- The facility did not attempt to determine the whereabouts of, or notify, former Medicaid residents or their authorized representatives when outstanding checks written from the RTF account had not cleared the bank. As of October 12, 2021, the facility had written 46 checks totaling $53,886.55 that were outstanding for longer than 90 days. Of the total outstanding amount, $22,949.36 was for RTF account checks and $30,937.19 was for operating account checks. The facility provided no documentation showing they had followed up with recipients to determine why checks had not been cashed and reissued checks when necessary.

Outstanding Checks as of October 12, 2021

Calendar Year	No. of Outstanding Checks	Sum of Operating Account Outstanding Checks	Sum of Resident Trust Fund Outstanding Checks
2018	13	$594.76	$681.53
2019	8	$2,174.24	$2,771.56
2020	15	$5,408.16	$9,562.02
2021	10	$22,760.03	$9,934.25
Total:	46	$30,937.19	$22,949.36

Criteria

Title 42, *Code of Federal Regulations* (CFR), Part 483, Section 10, documents the Centers for Medicare and Medicaid Services' rules pertaining to resident rights.

Requirements in 42 CFR 483.10(f)(10)(ii)(B) state, "The facility must deposit the residents' personal funds in excess of $50 in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on resident's funds to that account."

Additionally, 42 CFR 483.10(f)(10)(iii) states, "(A) The facility must 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. (B) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident."

Chapter 1200-08-06-.04(7) of the *Rules of the Tennessee Department of Health* states, "If the facility holds resident funds, such funds shall be kept in an account separate from the facility's funds. Resident funds shall not be used by the facility."

TennCare's *Guide to Patient Liability for Nursing Facility Services,* "Overview," page 3, states, "Pursuant to federal law and regulation, patient liability is a monthly amount that persons receiving Medicaid-reimbursed Long-Term services and Support (LTSS) or hospice services in a Nursing Facility (NF) are required to contribute to the cost of their care if their incomes are at certain levels."

The guide also states on page 3, "A person's patient liability obligation is determined by TennCare Member Services in accordance with federal post-eligibility provisions which take into account the person's income that is available to help pay for such care after a reasonable allowance for personal needs and other living expenses, allocation of income to a community spouse or dependents, and incurred medical expenses not subject to payment by a third party, as applicable."

Section 66-29-123(a), *Tennessee Code Annotated,* states, "A holder of a property presumed abandoned and subject to the custody of the treasurer shall report in a record to the treasurer concerning the property."

Chapter 1700-02-01-.19(1) 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. "Due Diligence" is defined herein as the degree of care which a reasonably prudent man would exercise in the normal course of business operations.
>
> (a) Evidence that the location of the owner cannot be ascertained may be the return of a first-class or superior mailing sent to the owner's last known address.
>
> (b) First-class or superior mailings to owners in the ordinary course of the holder's business which are not returned as "undeliverable" shall constitute contact with the owner and shall constitute an indication of interest in the property in accordance with the Act. Examples of such mailings include, but are not limited to, computerized statements of account and statements of interest earnings required by the Internal Revenue Service.

Similarly, 42 CFR 483.10(g)(14)(iv) states, "The facility must record and periodically update the address (mailing and email) and phone number of the resident representative(s)."

Maintaining resident funds in multiple accounts increases the risk of fraud, theft, or abuse. Not maintaining all funds in the RTF account increases the risk that sufficient funds will not be available to meet outstanding check obligations. By not attempting to determine the whereabouts or to notify former residents or their families when credit-balance refund checks were not cashed, the facility failed to act in the best interest of residents and failed to perform its due diligence in accordance with the *Rules of the Tennessee Department of Treasury.*

Recommendation

Nashville Center for Rehabilitation and Healing management should ensure that adequate measures are in place to safeguard resident trust funds. Management should ensure that RTF and operating funds are not commingled and that all applicable funds are accounted for on residents' individual account ledgers. Management should transfer $45,521.97 to the resident trust fund bank account from their operations bank account.

Management should retroactively review the payment records for all residents with a trust fund account and determine the total amount of resident liability overpayments. Management should also ensure that residents' monthly allowances are not deposited into the operating account. As a result, management should refund $215 to residents or their authorized representatives.

Management should perform due diligence to ensure that credit refund checks have been received by former residents or their legal representatives in a timely manner. Management should notify former residents or their representatives about the uncleared checks, and reissue checks totaling $53,886.55 to the verified addresses of former residents or their representatives or file a report with the Tennessee Department of Treasury for resident funds presumed to be abandoned. Lastly, management should periodically update contact information for residents' legal representatives or interested family members.

Management's Comment

There were late transfers of resident trust deposits, which were caused by a miscommunication between our resident trust and accounts payable personnel. We are committed to strengthening our processes related to resident trust deposits. All of the late transfers to date have been corrected and deposited into the resident trust account. We will retrain our business office and accounts payable personnel to ensure all future resident trust reconciliations and deposits are made timely.

We will reissue outdated outstanding checks to recipients. For those individuals who cannot be located, we will begin the process of reporting these checks to the Tennessee Department of the Treasury as abandoned funds. As part of our processes going forward, outstanding checks will be reviewed on a timelier basis to ensure necessary follow-ups occur.

Finding 2 – Nashville Center for Rehabilitation and Healing failed to promptly refund accounts receivable credit balances of 10 former residents totaling $9,270.07

Nashville Center for Rehabilitation and Healing failed to properly manage and promptly refund accounts receivable credit balances on the accounts of deceased or discharged residents. Management failed to refund accounts receivable credit balances, totaling $9,270.07, that remain on the accounts of 10 former Medicaid residents and are due back to the residents or their authorized representatives.

Discharge Period	Residents	Amount Due to Resident
FYE 12/31/19	2	$1,431.26
FYE 12/31/20	5	$4,969.83
FYE 12/31/21	3	$2,868.98
Total	10	$9,270.07

Section 66-29-123(a), *Tennessee Code Annotated*, requires that "A holder of property presumed abandoned and subject to the custody of the treasurer shall report in a record to the treasurer concerning the property." Chapter 1700-02-1-.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."

Recommendation

Nashville Center for Rehabilitation and Healing should implement an adequate system to promptly refund accounts receivable credit balances on the accounts of former residents or their authorized representatives. The facility should refund the accounts receivable credit balances, totaling $9,270.07, due back to the residents or their authorized representatives. Additionally, the facility's management should maintain evidence of attempts to contact the owner of the credit balance. If the proper owner cannot be located within three 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 will increase our reviews of residents' credit balances aging and ensure these reviews are done timely. We will retrain our accounts receivable and business office to ensure we file the credits as abandoned property in instances where residents or their authorized representative can't be located after attempt to contact.

Finding 3 – Nashville Center for Rehabilitation and Healing included $59,367.94 in nonallowable expenses on the Medicare Cost Report

Finding

The Nashville Center for Rehabilitation and Healing included $59,367.94 of nonallowable expenses on the Medicare Cost Report for the year ended December 31, 2020. The nonallowable expenses consist of $55,516.12 in unsupported expense; $2,130.09 in nonallowable marketing; $1,469.00 in personal expense; $220.00 in resident replacement items; and $32.73 in late fees.

Chapter 1200-13-06-.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." Chapter 1200-13-06.09 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, but are not limited to,

- 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; and
- advertising costs incurred.

The $59,367.94 of nonallowable expenses will be removed from total expenses. The effect of the adjustment to the Medicaid rate will not have an effect on the Medicaid reimbursement rate since 2020 was a non-rebase year.

Recommendation

Nashville Center for Rehabilitation and Healing 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 will review our accounts payable policies to ensure invoices and related supporting documentation are maintained. We will retrain our accounts payable and business office staff to ensure late fees, marketing, and other nonallowable expenses are appropriately coded when an invoice is received from a vendor.

SUMMARY OF MONETARY FINDINGS AND RECOMMENDATIONS

Source of Overpayments

Resident trust fund held in operating account (see Finding 1)	$ 45,521.97
Outstanding operating account checks (see Finding 1)	30,937.19
Outstanding resident trust fund checks (see Finding 1)	22,949.36
Unrefunded accounts receivable credit balances (see Finding 2)	9,270.07
Overpayment due to resident (see Finding 1)	215.00
Total	$ 108,893.59

Disposition of Overpayments

Due to residents or their authorized representatives	$ 63,371.62
Due to resident trust fund bank account	45,521.97
	$ 108,893.59