



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

50  
Department of Health and Human Services  
Financial Services - Audit  
# 11 State House Station  
Augusta, Maine 04333-0011  
Tel: (207) 287-2403; Fax: (207) 287-2601  
TTY Users: Dial 711 (Maine Relay)  
Fraud Hotline: (866) 348-1129

## Final Informal Review Decision

June 25, 2013

S. John Watson, CFO  
The Cedars  
630 Ocean Avenue  
Portland, Maine 04103

RE: **Cedars Nursing Care Center** for the Fiscal Year Ended **4/30/2009**

Dear Mr. Watson,

You have requested an informal review of an audit report for **Cedars Nursing Care Center** for the period from **05/01/08 to 4/30/09**. This report was issued on 07/27/11. Your appeal request is based on a letter from William H. Stiles, Verrill Dana L.L.P., of 09/21/11.

As a result of your request, we have prepared an informal review. Our Final Informal Review Decision is as follows:

### **1. Interest Expense Adjustment:**

This issue was appealed for both FY 2007 and FY 2008. It was decided that per the FINAL DECISION issued 12/18/2012 by Mary C. Mayhew, Commissioner, DHHS that the HUD loan expenses would be allowed.

It is recommended that a revision be issued.

### **2. Amortization Expense Adjustment:**

This issue was appealed for both FY 2007 and FY 2008. It was decided that per the FINAL DECISION issued 12/18/2012 by Mary C. Mayhew, Commissioner, DHHS that the HUD loan expenses would be allowed.

It is recommended that a revision be issued.

**3. Salaries Adjustment:**

The provider disagrees with adjustments to reclassify several positions from direct care to routine costs.

<u>Description</u>	<u>Wages</u>	<u>Benefits</u>	<u>Total</u>
Clinical Services Director	106,434		
MDS Coordinator	58,326		
NF Nursing Manager	4,862		
SNF Nursing Manager	71,097		
Added to Schedule D:	240,719	50,479	291,198
<i>Above were reclassified to administrative costs</i>			
Assistant DON/Other	64,836	13,596	78,432
<i>Above was reclassified to DON</i>			
	305,555	64,075	369,630

The job descriptions for the Clinical Services Director, MDS Coordinator, NF Nursing Manager and the SNF Nursing Manager indicate that the majority if not all of their duties were administrative in nature. The wages and benefits were not for direct care as was indicated by the provider. There was an audit adjustment to reclassify these expenses from direct care to administrative costs. Principle 43.4.2(C) was cited with this adjustment. It states:

43.4.2 (C) Administration Functions. The administration functions include those duties that are necessary to the general supervision and direction of the current operations of the facility, including, but not limited to, the following:

- (1) Central Office operational costs for business managers, controllers, reimbursement managers, office managers, personnel directors and purchasing agents are to be included in the administrative and policy-planning ceiling according to an allocation of those costs on the basis of all licensed beds operated by the parent company.
- (2) Policy Planning Function. The policy planning function includes the policy-making, planning and decision-making activities necessary for the general and long-term management of the affairs of the facility, including, but not limited to the following:
  - a) financial management, including accounting fees,
  - b) establishment of personnel policies,
  - c) planning of resident admission policies,
  - d) planning of expansion and financing.

- (3) This ceiling is not to include any Director of Nursing, Dietary Supervisor, or other department head, whose prime duties are not of an administrative nature but who may be responsible for hiring or purchasing for his or her Department.
- (4) All other regulations specific to administrative functions in Nursing Facilities that are included in State Licensing Regulations and all other State and Federal regulations.

The Assistant DON wages and benefits were included with direct care. An audit adjustment was done to transfer these wages and benefits from direct care to DON wages and benefits which are part of routine costs. Principle 41 was cited with this adjustment. It states:

#### 41 DIRECT CARE COST COMPONENT

The basis for reimbursement within the direct care cost component is a resident classification system that groups residents into classes according to their assessed conditions and the resources required to care for them.

41.1 Direct care costs include salary, wages, and benefits for:

- 41.1.1 registered nurses salaries/wages (excluding Director of Nursing),
- 41.1.2 licensed practical nurses salaries/wages,
- 41.1.3 nurse aides salaries/wages,
- 41.1.4 patient activities personnel salaries/wages,
- 41.1.5 ward clerks' salaries/wages,
- 41.1.6 contractual labor costs,
- 41.1.7 fringe benefits for the positions in Sections 41.1.1 through 41.1.5 include:
  - (1) payroll taxes,
  - (2) qualified retirement plan contributions,
  - (3) group health, dental, and life insurance, and
  - (4) cafeteria plans.

It is recommended that no changes be made.

**4. Workers' Compensation Insurance Expense Adjustment:**

The provider disagrees with the audit adjustment that transfers workers' compensation insurance expense related to the Clinical Services Director, MDS Coordinator, NF Nursing Manager and the SNF Nursing Manager to Schedule D in the amount of \$1,204. Schedule D summarizes administrative costs and the calculation of the administrative cap based upon a facility's bed size. The lesser of the administrative costs or the administrative cap is allowed with routine costs.

There were other adjustments to workers' compensation insurance expense, on work paper WP 14-2 that reduced this expense by \$10,476. It appears that the provider appealed this full amount in error.

It is recommended that no changes be made.

This final informal review decision was based upon a review of the audit report and the related work papers, and your subsequent communications to us.

Please refer to the attached Notice of Appeal Rights of MaineCare Providers for an explanation of your facility's further appeal options.

Sincerely yours,



Eleanor Plaisted Pass on behalf of Maria Grindle  
Reviewer for the Auditor of Record



Herbert F. Downs  
Director, Division of Audit

**Enclosures:**

Work Papers and Job Descriptions  
Notice of Appeal Rights of MaineCare Providers