TENNESSEE COMPTROLLER OF THE TREASURY

MEDICAID EXAMINATION

The Pavilion – THS, LLC
Lebanon, Tennessee

Cost Reports

January 1, 2022, Through December 31, 2022

Resident Days

January 1, 2022, Through June 30, 2023

Resident Accounts

January 1, 2022, Through October 31, 2023

Jason E. Mumpower
Comptroller of the Treasury

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TENNESSEE COMPTROLLER OF THE TREASURY

TENNESSEE COMPTROLLER OF THE TREASURY

JASON E. MUMPOWER
Comptroller

March 20, 2024

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 The Pavilion – THS, LLC in Lebanon, Tennessee, for the period January 1, 2022, through December 31, 2022; resident days for the period January 1, 2022, through June 30, 2023; and resident accounts for the period January 1, 2022, through October 31, 2023.

Sincerely,

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

KJS/pn
24/017

THE PAVILION – THS, LLC
LEBANON, TENNESSEE

EXAMINATION HIGHLIGHTS

Examination Scope

Cost Reports for the Period January 1, 2022, Through December 31, 2022;
Resident Days for the Period January 1, 2022, Through June 30, 2023; and
Resident Accounts for the Period January 1, 2022, Through October 31, 2023

Observations

The Pavilion – THS, LLC included $16,858.99 in nonallowable expenses on its Medicare Cost Report

The Pavilion – THS, LLC included $16,858.99 of nonallowable expenses on the Medicare Cost Report for the year ended December 31, 2022. The nonallowable expenses consist of $16,548.99 in unsupported expenses; $300.00 in lobbying expenses; and $10.00 in late fees.

The $16,858.99 total of nonallowable expenses may affect the Medicaid reimbursement rates since 2022 is a rebase year (page 5).

The Pavilion – THS, LLC failed to promptly refund the accounts receivable credit balances of four former Medicaid residents, totaling $1,951.61

The Pavilion – THS, LLC 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 $1,951.61, that remain on the accounts of four former Medicaid residents and are due back to the Medicaid Program (page 6).

The Pavilion – THS, LLC inappropriately charged Medicaid residents $420 for covered services

The facility inappropriately charged eight Medicaid residents a total of $420 for haircuts, which are basic covered services, from January 1, 2022, through October 24, 2023. This amount should be reimbursed to Medicaid residents who were charged for these services (page 7).

The Pavilion – THS, LLC failed to reconcile the bank statement to the resident trust fund subsidiary ledger

The facility reconciled the bank statement to the facility's general ledger. However, the resident trust fund subsidiary ledger balance was $1,402.68 less than the general ledger account balance on October 23, 2023 (page 8).

Medicaid Examination
The Pavilion-THS, LLC
Cost Reports for the Period
January 1, 2022, Through December 31, 2022;
Resident Days for the Period
January 1, 2022, Through June 30, 2023; and
Resident Accounts for the Period
January 1, 2022, Through October 31, 2023

Contents

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.

The Pavilion – THS, LLC

The Pavilion – THS, LLC in Lebanon, Tennessee, provides both NF-1 and NF-2 services. The facility is owned by Total Healthcare Systems, a Limited Liability Company in Lebanon, Tennessee.

During the examination period, the facility maintained a total of 60 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 21,900 available bed days for the year ended December 31, 2022, the facility reported 7,267 for Medicaid residents. Also, the facility reported total operating expenses of $6,826,880 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 Q01-9162
January 1, 2022, through June 30, 2022	$243.76
July 1, 2022, through December 31, 2022	$244.33
January 1, 2023, through June 30, 2023	$238.97
July 1, 2023, through December 31, 2023	$273.04

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

November 27, 2023

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 November 27, 2023, that The Pavilion – THS, LLC complied with the following requirements:

- Income and expenses reported on the Skilled Nursing Facility and Medicaid Supplemental Cost Reports for the fiscal year ended December 31, 2022, are reasonable, allowable, and in accordance with state and federal rules, regulations, and reimbursement principles.
- Resident days reported on the Skilled Nursing Facility and Medicaid Supplemental Cost Reports have been counted in accordance with state regulations. Medicaid resident days billed to the state from January 1, 2022, through June 30, 2023, when residents were discharged, are in accordance with the rules.
- Charges to residents or residents' personal funds from January 1, 2022, through October 31, 2023, are in accordance with state and federal regulations, and they complied with the Nursing Facility Manuals, as well as the agreement between the facility and the Department of Finance and Administration.

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.

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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 unmodified opinion. Our examination does not provide a legal determination on the entity's compliance with specified requirements.

We are required to be independent of The Pavilion – THS, LLC and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to the examination engagement.

In our opinion, management's assertions that The Pavilion – THS, LLC complied with the aforementioned requirements for income and expenses reported on the Medicare and Medicaid Supplemental Cost Reports for the period January 1, 2022, through December 31, 2022; resident days for the period January 1, 2022, through June 30, 2023; and resident accounts for the period January 1, 2022, through October 31, 2023, 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, CPA, CGFM, Director
Division of State Audit

KJS/pn

Observations and Recommendations

Observation 1

The Pavilion – THS, LLC included $16,858.99 in nonallowable expenses on its Medicare Cost Report

The Pavilion – THS, LLC included $16,858.99 of nonallowable expenses on the Medicare Cost Report for the year ended December 31, 2022. The nonallowable expenses consist of $16,548.99 in unsupported expenses; $300.00 in lobbying expenses; and $10.00 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; [and] . . .
- costs which are not necessary or related to patient care.

Chapter 21, Section 2139 of *The Provider Reimbursement Manual – Part 1* states, "Provider political and lobbying activities are not related to the care of patients. Therefore, costs incurred for such activities are unallowable."

The $16,858.99 of nonallowable expenses will be removed from total expenses. The $16,858.99 total of nonallowable expenses may affect the Medicaid reimbursement rates since 2022 is a rebase year.

Recommendation

The Pavilion – THS, LLC 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.

Observation 2

The Pavilion – THS, LLC failed to promptly refund the accounts receivable credit balances of four former Medicaid residents, totaling $1,951.61

The Pavilion – THS, LLC 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 $1,951.61, that remain on the accounts of four former Medicaid residents and are due back to the Medicaid Program.

The amount due to the Medicaid Program is for residents assigned to the two Managed Care Organizations (MCO): United HealthCare (UHC) and BlueCare.

Discharge Date	Amount Due to MCO	MCO
11/23/2020	$87.00	UHC
01/09/2023	$1,431.26	BlueCare
02/16/2023	$1035.77	BlueCare
03/03/2023	$59.27	UHC
Total	$1,951.61	

Title 42, *United States Code* (USC), Section 1320a-7k(d) and Section 6402 of the Affordable Care Act contain obligations for health care providers regarding reporting and returning overpayments from the Division 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 31 USC 3729(b)(3). The False Claims Act subjects a provider to a fine and triple the amount of damages, known as "treble damages," if he or she knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay money to the federal government.

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 1700-02-01-.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."

Recommendation

The Pavilion – THS, LLC should implement an adequate system to promptly refund accounts receivable credit balances on the accounts of former residents or their authorized representatives, or to the Division of TennCare. The facility should refund the accounts receivable credit balances, totaling $1,951.61, due back to the Medicaid Program. 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 the last account activity, the facility must file a report of the abandoned property with the Tennessee Department of Treasury, Division of Unclaimed Property.

Observation 3

The Pavilion – THS, LLC inappropriately charged Medicaid residents $420 for covered services

The Pavilion – THS, LLC has inappropriately charged Medicaid residents for Medicaid-covered services. The facility inappropriately charged eight Medicaid residents a total of $420 for haircuts, which is a basic covered service, from January 1, 2022, through October 24, 2023.

Regarding basic services, Chapter 0720-18-.06(4)(q) of the *Rules of the Tennessee Health Facilities Commission* states, "Residents shall have shampoos, haircuts, and shaves as needed, or desired."

Chapter 3, Paragraph 310.A.6 of the *ICF (Intermediate Care Facilities) Manual* states,

> Policies must ensure that each resident admitted to the ICF:
>
> a. Is fully informed in writing prior to or at the time of admission and during stay, of services available in the ICF, and of related charges including any charges for services not covered under the Title XIX program or not covered by the ICF's basic per diem rate.

The facility failed to inform Medicaid residents during an admission process that they have a free haircut alternative.

Recommendation

The Pavilion – THS, LLC should not charge Medicaid residents for covered services. In the future, the facility should provide covered services to all Medicaid residents without charge. The facility should establish adequate procedures to ensure compliance with applicable laws and regulations relative to protecting resident trust funds. The facility should reimburse the eight Medicaid residents or their authorized representatives a total of $420.

Observation 4

The Pavilion – THS, LLC failed to reconcile the bank statement to the resident trust fund subsidiary ledger

The Pavilion – THS, LLC reconciled the bank statement to the facility's general ledger but did not reconcile it to the subsidiary ledger balances. The resident trust fund subsidiary ledger balance was $1,402.68 less than the general ledger account balance on October 23, 2023. No explanation was provided.

Title 42, *Code of Federal Regulations,* Part 483.10(f)(10)(iii)(A) states, "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."

Recommendation

The Pavilion – THS, LLC must establish and maintain a system that assures a full, complete, and separate accounting of each resident's personal funds. Bank statements should be reconciled to the resident trust fund subsidiary ledgers.

Management's Comment

We do not have any comments. We concur with the report.

Summary of Monetary Observations and Recommendations

Source of Overpayments

Unrefunded accounts receivable credit balances (see Observation 2)	$ 1,951.61
Charges for covered services (see Observation 3)	420.00
Total	$2,371.61

Disposition of Overpayments

Due to the State of Tennessee	$ 1,951.61
Due to residents or their authorized representatives	420.00
Total	$2,371.61