

**STATE OF NEW YORK
DEPARTMENT OF HEALTH**

In the Matter of the Appeal of

Michael Malotz Skilled Nursing Pavilion

Medicaid ID # [REDACTED]

from a determination to seek restitution of
Medicaid Program overpayments

#08 2507

Before: John Harris Terepka
Administrative Law Judge

Held at: New York State Department of Health
90 Church Street
New York, New York 10007
July 12, 2011

Parties: New York State Office of the Medicaid Inspector General
217 Broadway, 5th Floor
New York, New York 10007

Michael Malotz Nursing Pavilion
120 Odell Avenue
Yonkers, New York 10701

By: Raul A. Tabora, Jr., Esq.
Ruffo Tabora Mainello & McKay P.C.
300 Great Oaks Boulevard Suite 311
Albany, New York 12203

The New York State Office of the Medicaid Inspector General (OMIG) is an independent office within the Department of Health responsible for the Department's duties with respect to the recovery of improperly expended Medicaid funds. PHL 31.

The OMIG determined to recover Medicaid Program overpayments from Michael Malotz Skilled Nursing Pavilion (the Appellant). The Appellant requested a hearing pursuant to SSL 22 and former Department of Social Services (DSS) regulations at 18 NYCRR 519.4 to review the overpayment determination.

The OMIG's determination was communicated to the Appellant by a final audit report (audit # 08-2507) dated May 10, 2010. Written notice of hearing in conformity with the requirements of 18 NYCRR 519.10 was sent to the Appellant on June 29, 2010, scheduling the hearing to commence on August 3, 2010.

The hearing was postponed upon the request of both parties for the purposes of settlement to September 2, November 4, 2010; January 18, April 27, and July 12, 2011. Neither party appeared on July 12, 2011, nor did either party request that the hearing be further adjourned or rescheduled. The Appellant did not withdraw the hearing request nor did the OMIG advise the Bureau of Adjudication that a settlement had been finalized.

As the hearing was not rescheduled and the parties did not appear at the hearing on the scheduled date, this administrative proceeding is deemed abandoned. 18 NYCRR 519.11, 519.12, 519.17(a).

DATED: Rochester, New York
July 14, 2011

_____/s/_____
John Harris Terepka
Bureau of Adjudication