

**STATE OF NEW YORK  
DEPARTMENT OF HEALTH**

---

In the Matter of the Appeal of

**Our Lady of Peace Nursing Care Residence**  
Medicaid ID # 02415507

from a determination to seek restitution of  
Medicaid Program overpayments

---

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**Corrected Decision**

#10-6959

Before: John Harris Terepka  
Administrative Law Judge

Held at: New York State Department of Health  
584 Delaware Avenue  
Buffalo, New York 14202

Parties: New York State Office of the Medicaid Inspector General  
584 Delaware Avenue  
Buffalo, New York 14202  
By: Kendra A. Vergason, Esq.

Our Lady of Peace Nursing Care Residence  
5285 Lewiston Road  
Lewiston, New York 14092  
By: Cornelius D. Murray, Esq.  
O'Connell & Aronowitz  
54 State Street  
Albany, New York 12207


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 Our Lady of Peace Nursing Care Residence (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 # 10-6959) dated February 11, 2015. Written notice of hearing in conformity with the requirements of 18 NYCRR 519.10 was sent to the Appellant on April 20, 2015, scheduling the hearing to commence on July 7, 2015.

The hearing was rescheduled upon the request and consent of both parties for various reasons to October 5, 2015, January 29, April 12, May 27, July 19, September 19 and December 7, 2016. On January 3, 2017, the Bureau of Adjudication issued a decision dated December 30 declaring the hearing dismissed pursuant to 18 NYCRR 519.11, 519.12 & 519.17.

The parties have advised the ALJ that the matter had in fact been settled before December 7, and that in connection with a "universal settlement" involving a number of OMIG audits, the Appellant had withdrawn the hearing request. This administrative proceeding having been settled between the parties and withdrawn, the decision dated December 30, 2016 is hereby corrected and reissued to reflect that there is no issued to be decided herein.

DATED: Rochester, New York  
January 12, 2017

  
\_\_\_\_\_  
John Harris Terepka  
Bureau of Adjudication