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★ ★ ★ **OPERATION RESTORE TRUST** ★ ★ ★

February 28, 1997

Mr. Curtis Lord, VP Program Safeguards
Blue Cross/Blue Shield of Florida
532 Riverside Avenue, 11th Tower
Jacksonville, FL 32231

Dear Mr. Lord:

The enclosed report and recommendations for adjustment of charges provides the results of the Operation Restore Trust (ORT) Skilled Nursing Facility review conducted at Miami Jewish Home and Hospital (Medicare provider number 10-5030), a skilled nursing facility located in Miami, Florida. The primary objective of the review was to evaluate the medical necessity of the care and services provided and the reasonableness of the charges and reimbursements made during the period from January 1994 through December 31, 1995.

The ORT reviewers questioned $391,719 in charges reported for the 32 beneficiaries in our sample. This amount comprises $312,363 related to Physical, Occupational, Respiratory, and Speech therapy; $48,834 in unallowable laboratory charges; and $30,385 for drugs and other supplies. Therefore, we are recommending an adjustment of the above charges. In addition, we request that a focused review of occupational and respiratory therapies and the use of standing orders for all therapies be conducted by the FI and State agency in order to recoup overpayments made to this SNF and to implement corrective action by the facility.

Following your review of this report, please prepare and submit to the Miami ORT Satellite Office a plan of corrective action to implement the recommendations made to the FI in this report. This plan should be submitted within thirty days of receipt of this letter.

If there are any questions regarding this report, please call Dewey Price at 305-536-6540.

Sincerely,

Mary W Mitchell for
Rose Crum-Johnson
HCFA Regional Administrator - Reg IV

Charles Curtis
Regional Inspector General - Audit

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★ ★ ★ **OPERATION RESTORE TRUST** ★ ★ ★

February 28, 1997

Mr. Marshall Kelley, Director
Division of Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, FL 32308

Dear Mr. Kelley:

The enclosed report and recommendations for adjustment of charges provides the results of the Operation Restore Trust (ORT) Skilled Nursing Facility review conducted at Miami Jewish Home and Hospital (Medicare provider number 10-5030), a skilled nursing facility located in Miami, Florida. The primary objective of the review was to evaluate the medical necessity of the care and services provided and the reasonableness of the charges and reimbursements made during the period from January 1994 through December 31, 1995.

The ORT reviewers questioned $391,719 in charges reported for the 32 beneficiaries in our sample. This amount comprises $312,363 related to Physical, Occupational, Respiratory, and Speech therapy; $48,834 in unallowable laboratory charges; and $30,385 for drugs and other supplies. Therefore, we are recommending an adjustment of the above charges. In addition, we request that a focused review of occupational and respiratory therapies and the use of standing orders for all therapies be conducted by the FI and State agency in order to recoup overpayments made to this SNF and to implement corrective action by the facility.

Following your review of this report, please prepare and submit to the Miami ORT Satellite Office a plan of corrective action to implement the recommendations directed to the State agency in this report. This plan should be submitted within thirty days of receipt of this letter.

If there are any questions regarding this report, please call Dewey Price at 305-536-6540.

Sincerely,

Mary W. Mitchell for
Rose Crum-Johnson
HCFA Regional Administrator - Reg IV

Charles Curtis
Regional Inspector General - Audit

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I. EXECUTIVE SUMMARY

This report provides the results of our Operation Restore Trust (ORT) survey of The Miami Jewish Home and Hospital for the Aged at Douglas Gardens (Miami Jewish), a skilled nursing facility (SNF) in Miami, Florida. The objective of the survey was to determine whether charges other than room and board, billed to the Medicare Part A Fiscal Intermediary (Intermediary) and Part B Carrier (Carrier), were allowable based on applicable Federal regulations and implementing instructions under the Medicare guidelines. For these services to be allowable they must be:

- considered a specific and effective treatment for the patient's condition;
- prescribed under the assumption that the patient's condition will improve significantly in a reasonable period of time based on the assessment made by the physician;
- reasonable in amount, frequency, and duration; and
- fully supported by the patient medical records.

A team comprising a Florida State Agency for Health Care Administration (State Agency) nurse surveyor, a Regional Health Care Administration (HCFA) nurse consultant, and an Office of Inspector General (OIG) Office of Audit Services auditor conducted an unannounced focused survey at Miami Jewish. The members of the team evaluated the services for 32 Medicare beneficiaries with aberrant charges made for the period January 1, 1994 through December 31, 1994.

We found $391,719 in charges reported by the SNF that did not meet Medicare reimbursement guidelines as stated above for the 32 beneficiaries in the sample. The disallowed cost consists of $312,363 for occupational, physical, speech, and respiratory therapy services, $48,834 of charges for laboratory services, and $30,385 of drug charges or other supplies which were not medically necessary, not documented or not covered by Medicare.

The therapy overcharges of $312,363 occurred because all patients received standing orders on admission for evaluation of need for Occupational (OT), Physical (PT), Speech (ST), and Respiratory (RT) therapy services.

We are recommending that the Intermediary make an adjustment of $391,719 for questioned charges reported by the SNF on its FY 1994 cost report.

REGION IV OPERATION RESTORE TRUST PILOT

FOCUSED REVIEW OF A SKILLED NURSING FACILITY

II. BACKGROUND

The Secretary of the Department of Health and Human Services and the President initiated Project ORT. This innovative, collaborative project was designed to address growing concerns over rising health care costs. A review of departmental records indicated that over the last 10 years, the following segments of the health care industry have experienced a surge in health care fraud:

- home health,
- nursing homes,
- hospice, and
- durable medical equipment.

Departmental records further disclosed that the States of Texas, California, Illinois, New York, and Florida receive annually over 40 percent of all Medicare and Medicaid funds paid to the above health care segments. As a result, these States and the above health care segments were chosen as targets of the ORT 23-month pilot project.

Within the Department of Health and Human Services, ORT has been a joint effort by HCFA, the OIG, and the Administration on Aging. These components are focusing attention on Program vulnerabilities identified through investigations and audits.

HCFA's Bureau of Data Management Services (BDMS) has identified certain SNFs in Florida as aberrant according to their billings. The method used to identify these providers was to evaluate the universe of SNF admissions in each state during CY 1994. Data for all SNF claims was summarized first by beneficiary, and then by SNF. Key statistical data included total claims per beneficiary, allowed dollars per stay, line items or services per number of beneficiaries, average dollars and claims per stay, and average dollars per day. BDMS generated a listing of SNFs with high reimbursement amounts per day and per stay. The listing of SNFs was manually scanned and 14 were judgementally selected based on total highest reimbursement.

In addition to these 14 SNFs, we requested the two principal fiscal intermediaries in Florida (AETNA and Blue Cross) to each identify 3 SNFs for inclusion in this project based upon their data, complaints, and experience with SNF providers.

The Miami Jewish Home and Hospital for the Aged at Douglas Gardens was one of the 14 SNFs judgementally selected for review. It was selected for the survey based upon its high therapy costs, high average length of stay by the residents, high cost per stay, and high cost per day.

III. SCOPE OF REVIEW

The survey was conducted by a team comprising a nurse surveyor from the State Agency, a nurse consultant from HCFA, and an auditor from the OIG Office of Audit Services. This HCFA directed survey was conducted using HCFA's review protocols rather than the OIG's policies and procedures. Accordingly, the OIG's work was in compliance with generally accepted government auditing standards only in relation to the quantification of the unallowable services identified by other members of the team.

The objective of the survey was to determine whether charges other than room and board, billed to the Intermediary and Carrier, were allowable based on applicable Federal regulations and implementing instructions under the Medicare guidelines. Primarily, we wanted to determine whether unnecessary care was provided to the 32 beneficiaries in our sample, for whom Miami Jewish billed Medicare $1,208,692 during the period January 1, 1994 through December 31, 1994. The facility's Medicare fiscal period is January 1 through December 31.

The approach used was to identify all services billed to Medicare Part A, Medicare Part B, and Medicaid crossover claims for each of the 32 beneficiaries in our sample during their stay at Miami Jewish between January 1994 and December 1994. This approach was adopted because many providers, other than Miami Jewish bill separately for services to the SNF patients, e.g., podiatrists, portable x-ray suppliers, therapy providers and DME suppliers. These claims go to various Medicare contractors and to Medicaid, and are rarely, if ever associated with each other or the SNF's bills.

Using the team concept, the State Agency and HCFA nurses identified Medicare-funded services which were either not reasonable or necessary, and the OIG auditor quantified the charges associated with the services. The beneficiaries' medical records and related documentation were reviewed to determine the medical necessity of charged services; specifically, were the services: (I) recorded in the medical records, (ii) ordered by a physician, (iii) rendered by qualified personnel, and (iv) appropriate considering the physicians' diagnosis and the residents' physical/mental condition. The SNF's accounting records and supporting documentation were reviewed to determine: (I) the bases for charges reported to Medicare, and (ii) the amount of charges associated with questioned services.

Field work was performed at the SNF's offices in Miami, Florida during the period August 5 through August 9, 1996.

IV. FINDINGS AND RECOMMENDATIONS

The review of the 32 beneficiaries included in our survey consisted of a retrospective analysis of their payment history for rehabilitative services under Part A and services provided under Part B while residents of the facility. It is questionable if these beneficiaries met the criteria for rehabilitative services. Our evaluation of the medical records for the 32 beneficiaries resulted in disallowance of $391,719 in charges reported by Miami Jewish in its FY 1994 Medicare Cost Report. The disallowed cost consists of $312,363 of charges for occupational, physical, speech, and respiratory therapy services, $48,834 of charges for laboratory services, and $30,385 of drug charges and for other services which were not medically necessary, not documented or not covered by Medicare.

QUESTIONED CHARGES

	Billed	Questioned	Percentage
THERAPIES:			
Occupational	$131,037	$ 64,987	50%
Physical	133,535	6,496	6%
Speech	60,000	10,070	17%
Respiratory	256,970	230,810	90%
Subtotal	$ 581,542	$312,363	54%
Laboratory	48,851	48,834	100%
Drugs	104,092	30,385	29%
Total	$ 734,622	$391,719	53%

OCCUPATIONAL, PHYSICAL, SPEECH, AND RESPIRATORY THERAPY SERVICES

We questioned $312,363 of occupational (OT), physical (PT), speech (ST), and respiratory (RT) therapy services charged to 24 of the 32 beneficiaries included in our sample. Under paragraph 1861(h)(3) of the Social Security Act, these services are covered under Medicare Part A when provided in accordance with a physician's orders and by or under the supervision of a qualified therapist. The Medicare Intermediary Manual at paragraph 3132 (MIM 3132) states that the ordered therapies provided in a SNF must be reasonable and necessary for the treatment of the beneficiary's illness or injury. The questioned charges did not meet the reimbursement criteria.

FINDING #1

Occupational Therapy Services

We questioned the medical necessity and documentation of $64,987 for OT provided to 14 of 32 beneficiaries that Miami Jewish was reimbursed during the period of our review. In order to be covered under Medicare Part A such services must be prescribed by a physician, be performed by a qualified therapist, and be reasonable and necessary for the treatment of the individual's illness or injury. OT designed to improve function is considered reasonable and necessary only where an expectation exists that the therapy will result in a significant practical improvement in the individual's level of functioning with a reasonable period of time. We do not believe a basis existed for an expectation that the OT services provided would significantly improve the fourteen residents' level of functioning. Our review of the residents' records showed the OT services were not medically necessary.

RECOMMENDATION

We recommend that the Intermediary should:

- Adjust the $64,987 from OT charges reported by the SNF on its FY 1994 cost report.
- Conduct a focused review of all OT services provided at Miami Jewish since the period of our review.

We recommend that the State agency should:

- Ensure through a Corrective Action Plan that all OT services are ordered by a physician prior to the provision of this service; and that all patients are accurately assessed as to the medical need and rehabilitation potential prior to receiving OT services.

FINDING # 2

Physical Therapy Services

We questioned the medical necessity and documentation of $6,496 for PT provided to 8 of 32 beneficiaries that Miami Jewish was reimbursed during the period of our review. In order to be covered under Medicare Part A, PT services must relate directly and specifically to an active written treatment regimen established by the physician or be the physical therapist providing the services and must be reasonable and necessary to the treatment of the individual's illness or injury (M.M. 3101.8).

To be considered reasonable and necessary the following conditions must be met:

- The services must be considered a specific and effective treatment for the patient's condition.
- There must be an expectation that the patient's condition will improve significantly in a reasonable period of time based on the assessment made by the physician.
- The amount, frequency, and duration of the services must be reasonable.

Our review of the residents' records showed the PT services were either not medically necessary or not documented.

RECOMMENDATION

We recommend that the Intermediary should adjust the $6,496 from PT charges reported by the SNF on its FY 1994 cost report.

FINDING #3

Speech Therapy Services

We questioned the medical necessity, documentation, and coverage of $10,070 for ST provided 5 of 32 beneficiaries that Miami Jewish was reimbursed during the period of our review. Speech pathology services are those services necessary for the diagnosis and treatment of speech and language disorders which result in communication disabilities. They must be related directly and specifically to a written treatment regimen established by the physician (or speech pathologist providing the services). The services must be reasonable and necessary to the treatment of the individual's illness or injury. To be considered reasonable and necessary the following conditions must be met:

- The services must be considered a specific and effective treatment for the patient's condition.
- The services must be of such a level of complexity and sophistication, or the patient's condition must be such that the services required can be safely and effectively performed only by or under the supervision of a qualified speech pathologist.
- There must be an expectation that the patient's condition will improve significantly in a reasonable period of time based on the assessment made by the physician.
- The amount, frequency, and duration of the services must be reasonable.

Our review of the residents' records showed the ST services were either not medically necessary, not documented, or not covered by Medicare.

RECOMMENDATION

We recommend that the Intermediary should adjust the $10,070 from ST charges reported by the SNF on its FY 1994 cost report.

FINDING #4

Respiratory Therapy Services

We questioned the coverage of $230,810 for RT provided to 15 of 32 beneficiaries that Miami Jewish was reimbursed during the period of our review. These services are reimbursable under Medicare Part A if furnished by a transfer hospital or by a nurse on the staff of the skilled nursing facility. The services are considered medically necessary and reasonable if they meet the following criteria.

- Consistent with the nature and severity of the individuals' complaints and diagnosis,
- Reasonable in terms of modality, amount, frequency, and duration of the treatments, and
- Generally accepted by the professional community as being safe and effective treatment for the purpose used.

All of the respiratory therapy services charged in CY 1994 are not allowable. Miami Jewish had a contract with an outside respiratory provider who was not affiliated with a hospital and therefore did not have a valid transfer agreement. Respiratory therapy services may be covered as a skilled nursing facility service if furnished to the inpatients of the nursing facility directly by a "transfer hospital," or if furnished by a nurse of the staff of the SNF. This coverage provision is described in Medicare Intermediary Manual, Section 3101.10(c). The provision of respiratory therapy services are currently being administered by a nurse employee of Miami Jewish and are within the coverage guidelines.

The Medicare Revenue Code for Respiratory Therapy (#410) that was used to bill the respiratory therapy visits also contained the oxygen use per hour by the residents. Oxygen is a supply item and the oxygen use amounts contained in the respiratory revenue code was not questioned.

RECOMMENDATION

We recommend that the Intermediary should:

- Adjust the $230,810 from RT charges reported by the SNF on its FY 1994 cost report.
- Conduct a focused review of all RT services provided at Miami Jewish since the period of our review.

We recommend that the State agency should:

- Ensure that corrective action taken by the provider since the period of the review is continuing; otherwise a valid transfer agreement must be in place with a transfer hospital.

FINDING #5

Laboratory services

We questioned the coverage of $48,834 for laboratory services provided to 27 of the 32 beneficiaries that Miami Jewish was reimbursed during the period of our review. All of the laboratory services billed in CY 1994 are not allowable. Miami Jewish had a contract with an outside laboratory provider which specified that the lab was approved to provide laboratory services as an independent laboratory under the Supplementary Medical Insurance for the Aged program. Supplementary Medical Insurance is the Medicare Part B program. The independent laboratory should have billed all of the laboratory procedures directly to the Part B Carrier. In this case, the laboratory billed Miami Jewish, who billed for these services under Medicare Part A.

A SNF can bill under Part A only if it has its own qualified laboratory or obtains the services from its transfer agreement hospital. Since 1984, Section 1833(h)(5)(A) of the Social Security Act has permitted payment under Part B for a clinical diagnostic laboratory test to be made only to the entity that performed the test. Tests performed by an independent laboratory that does not belong to the SNF or the transfer hospital can only be billed by the laboratory directly under Part B. Arrangements, where the facility would bill, are not permitted under Part B.

RECOMMENDATION

We recommend that the Intermediary should:

- Adjust the $48,834 from laboratory services charges reported by the SNF on its FY 1994 cost

report.

- Conduct a focused review of laboratory services provided at Miami Jewish since the period of our review.

We recommend that the State agency should:

- Ensure through a corrective action plan that all laboratory services are appropriately ordered by a physician and documented.

FINDING #6

Drugs

We questioned the coverage of $30,385 for drugs provided to 28 of the 32 beneficiaries that Miami Jewish was reimbursed during the period of our review. These items were identified as over-the-counter or supplemental food items that should have been included as routine and are already included in the daily room and board charge. Also included in this category are supply items and equipment that should have been billed as durable medical equipment through the Part B carrier.

RECOMMENDATION

We recommend that the Intermediary should:

- Adjust the $30,385 from drug charges reported by the SNF on its FY 1994 cost report.

- Conduct a focused review of all drugs provided at Miami Jewish since the period of our review.