



State of New Jersey

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Governor

TAHESHA L. WAY
Lt. Governor

OFFICE OF THE STATE COMPTROLLER
MEDICAID FRAUD DIVISION
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KEVIN D. WALSH
Acting State Comptroller

JOSH LICHTBLAU
Director

March 25, 2025

BY ELECTRONIC, OVERNIGHT AND REGULAR MAIL

Mr. Joel Teitelbaum, Administrator
Barclays Rehabilitation and Healthcare Center, LLC
1412 Marlton Pike East
Cherry Hill, NJ 08034
[REDACTED]

Re: Review Findings – Barclays Rehabilitation and Healthcare Center, LLC - National Provider Identification – [REDACTED]

Dear Provider:

This letter serves to inform you that the New Jersey Office of the State Comptroller, Medicaid Fraud Division (OSC) completed its review of the staff-to-resident ratio of Barclays Rehabilitation and Healthcare Center, LLC (Barclays) for the period from July 1, 2023 through July 31, 2023. The purpose of this review was to determine whether Barclays satisfied state requirements pertaining to the required minimum staffing requirements (i.e., staff-to-resident ratio). As explained more fully below, OSC found that Barclays routinely failed to satisfy the direct care staff-to-resident ratio requirements. Accordingly, OSC is seeking to recover the Medicaid funds paid for the dates for which Barclays failed to meet these requirements and a civil monetary penalty based on the pervasive and serious deficiencies OSC identified.

OSC conducted its review based on documentation OSC obtained from Barclays. Specifically, OSC reviewed copies of professional licenses, timesheets, and payroll records of Barclays' staff, including Certified Nursing Assistants, who provided direct care assistance. Based on its review, OSC found that Barclays violated N.J.S.A. 30:13-18, N.J.A.C. 13:45B-14.4 and N.J.A.C. 10:49-9.8 by consistently providing staffing levels that were significantly below the minimum legal requirements, and by having services provided by a professional whose certification expired. OSC's finding that Barclays routinely failed to meet minimum staffing levels raises serious concerns because there is considerable evidence showing that staffing levels

correlate to quality of care, with higher staffing ratios corresponding to higher quality and lower levels to lower quality.¹

Pursuant to N.J.S.A. § 30:13-18a, nursing homes shall maintain the following minimum direct care staff-to-resident ratios:

- 1) One certified nurse aide to every eight residents for the day shift;
- 2) One direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members shall be certified nurse aides, and each staff member shall be signed in to work as a certified nurse aide and shall perform certified nurse aide duties; and
- 3) One direct care staff member to every 14 residents for the night shift, provided that each direct care staff member shall sign in to work as a certified nurse aide and perform certified nurse aid duties.

Pursuant to N.J.A.C. 13:45B-14.4, “When licensure to perform a health care service or function is required by law, an agency shall refer or place only those health care practitioners who are currently licensed or certified and in good standing with their respective New Jersey licensing or registration boards.”

Moreover, pursuant to N.J.A.C. 10:49-9.8(a), “providers shall certify that the information furnished on the claim is true, accurate, and complete.”

Based on its review, OSC determined that for each of the 31 days in July 2023, for at least one shift every day, Barclays failed to provide the minimum number of direct care staff to appropriately render services to its residents. Out of the 93 shifts that constituted the three shifts (day, evening, and night) for the 31 days in July 2023, Barclays did not adequately staff 85 of the 93 shifts (91 percent). On average, Barclays provided 2 fewer direct care staff members per shift than required, a shortage of 23 percent. When broken down by shift, the results are as follows: during the day shift, on average, Barclays staffed its facility 23 percent below the minimum legal requirement; during the evening shift, on average, Barclays staffed its facility 16 percent below the minimum legal requirement; and, during the night shift, on average, Barclays staffed its facility 31 percent below the minimum legal requirement.

When viewed from a patient care perspective, OSC’s findings raise serious concerns. Barclays’ failure to adequately staff its facility meant that each direct care staff member, on average, provided services to approximately 11 beneficiaries during the day shift, which was 31 percent more than permitted by law. During the evening shift, each direct care staff member, on average, provided services to approximately 12 beneficiaries, which was 20 percent more than permitted by law. Finally, during the night shift, each direct care staff member, on average,

¹ Design for Care Compare Nursing Home Five-Star Quality Rating System: Technical Users’ Guide January 2025, p. 6: <https://www.cms.gov/medicare/provider-enrollment-and-certification/certificationandcompliance/downloads/usersguide.pdf>; see also, Abt Associates, Nursing Home Compare Five-Star Quality Rating System: Year Five Report, p. 17: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/NHC-Year-Five-Report.pdf>.

provided services to approximately 21 beneficiaries, which was 51 percent more than permitted by law. These findings, taken as a whole, demonstrate that Barclays' failure to provide adequate staffing undoubtedly adversely affected its residents and caused staff that were present to face workloads that were, at times, far in excess of the limits established by state law. *See* Appendices I and II for details.

Furthermore, OSC noted that during the review period, one of the aides employed by Barclays continued to work for seven days after their nursing aide certification had expired. N.J.A.C. 8:39-43.6 states "The Department shall require the renewal and updating of a nurse aide listing on the registry at least once every two years on a schedule established by the Department." OSC not only excluded this nurse aide's time from the nursing home staffing ratio calculation, but also found that Barclays violated N.J.A.C 13:45B-14.4 by failing to properly oversee its staff's qualification requirements, which could have adversely affected patient care.

As outlined above, Barclays failed to meet its statutorily required staffing levels for each day in July 2023. Despite that, when Barclays submitted claims to the Medicaid program for payments for these dates in July 2023, it asserted that it had complied with all laws and requirements. Those representations were not "true, accurate and complete" and, thus, Barclays violated N.J.A.C. 10:49-9.8(a). In fact, given how pervasive its staffing deficiencies were, Barclays knew or should have known that its Medicaid claims were not true, accurate and complete.

Based on the findings above, OSC is seeking to recover from Barclays the payments that the Medicaid program paid to Barclays for each day in July 2023, which is \$367,590. In addition, given Barclays' knowledge of its deficiencies, as well as the pervasiveness and seriousness of the findings outlined above, OSC is imposing a civil monetary penalty of \$367,590 against Barclays. In total, Barclays must repay the Medicaid program \$735,180. Finally, to address the staffing deficiencies identified above, within 30 days from the date of this letter, Barclays must provide OSC with a Corrective Action Plan (CAP) outlining the steps it will take to correct these deficiencies.

Enclosed please find password protected files containing a detailed analysis and calculations of the direct care staff-to-resident ratios, along with each shift's staffing requirements and a presentation highlighting staffing shortages. To obtain the password, please contact [REDACTED] Supervising Senior Auditor by electronic mail at [REDACTED] or by calling [REDACTED]

PLEASE TAKE NOTICE: If, after reviewing OSC's analysis, you believe that Barclays provided patient care in accordance with the relevant state requirements, you may submit to OSC a written explanation with relevant supporting documentation within 30 days of the date of this letter. Should you submit such a written explanation within this 30-day time period, OSC reserves the right to obtain additional records, conduct on-site visits, and perform any additional analysis necessary to conclude this review. Should you fail to respond in writing to OSC within this 30-day period, OSC may take further appropriate action, including but not limited to: issuing a Notice of

Claim, Certificate of Debt, and Notice of Withholding, which would withhold a portion of your future claim's payments, and any other remedy available to OSC by law.

If you agree with OSC's conclusion, please mail a Certified Check, Bank Check, or Attorney Trust Account Check for the above stated amount made payable to "Treasurer, State of New Jersey" to the address below. Please insert on the "memo line" of the check [REDACTED]

Treasurer, State of New Jersey
Division of Revenue
200 Woolverton Street, Building 20
Lockbox 656
Trenton, New Jersey 08646
Attn: Processing Bureau

In addition, please forward a copy of your certified payment by email to [REDACTED] or by US Mail to the Office of the State Comptroller, Medicaid Fraud Division, P.O. Box 025, Trenton, New Jersey, 08625-0025, attention: [REDACTED]. Should you have any questions regarding this letter please contact [REDACTED] or by email at [REDACTED] or you may contact [REDACTED] at [REDACTED] or by email at [REDACTED].

This letter documents and seeks a recovery relating to Barclays' failure to meet state minimum staffing levels and its improper billing of claims to the Medicaid program. Given this finding, Barclays immediately must cease inadequately staffing its facility and submit to OSC a CAP, as outlined above. If Barclays fails to take these actions, it may be subject to additional penalties and/or administrative sanctions for such failure.

Please be advised that this letter is a public document and, as such, may be placed on the OSC/MFD website.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER

DATE: 03/25/2025

By: 

Sanjeev Bassi
Assistant Division Director (Audit)
Office of the State Comptroller
Medicaid Fraud Division

Attachments:
Appendix I- Findings Summary (password protected)

Mr. Joel Teitelbaum, Administrator
Barclays Rehabilitation and Healthcare Center, LLC
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Appendix II- Detail Findings Report (password protected)

cc: Moshe Brodt – Owner of Barclays Rehabilitation and Healthcare Center LLC
Aron Rubin, Esq – Rubin Law LLC
Justin Berardo, Assistant Division Director, Regulatory and Exclusion Unit, OSC
Glenn Geib, Recovery Supervisor, OSC

Response to the Review Findings Letter

Following the issuance of the OSC Review Findings letter dated March 25, 2025, Barclays Rehabilitation and Healthcare Center, LLC (Barclays), through its legal representative Peter Slocum, Esq. of Lowenstein Sandler, LLP, submitted a written response dated April 22, 2025. In its response, Barclays disagreed with all of the findings; however, it did not provide any additional information or documentation to refute the findings. Additionally, Barclays was required to submit a Corrective Action Plan to OSC but failed to do so. As a result, the findings outlined in the Review Findings letter remain unchanged.

A copy of Barclays' response to the OSC's Review Findings letter is attached as Exhibit A.



Peter Slocum
Partner

One Lowenstein Drive
Roseland, New Jersey 07068

[REDACTED]
[REDACTED]
[REDACTED]

April 22, 2025

VIA CERTIFIED MAIL

Sanjeev Bassi
Assistant Division Director (Audit)
Office of the State Comptroller
Medicaid Fraud Division
PO Box 024
Trenton, NJ 08625

VIA ELECTRONIC MAIL

[REDACTED]
Supervising Senior Auditor
Office of the State Comptroller
Medicaid Fraud Division
PO Box 024
Trenton, NJ 08625
[REDACTED]

Re: In re Review Findings - Barclays Rehabilitation and Healthcare Center, LLC
[REDACTED]

Dear Mr. Bassi:

This firm is counsel to Barclays Rehabilitation and Healthcare Center (the “Facility,” NPI ID # [REDACTED]). We are in receipt of the March 25, 2025 Review Findings (“Findings”) issued by the New Jersey Office of the State Comptroller Medicaid Fraud Division (the “Division”). We write in response to the Findings, which the Facility disputes on numerous grounds.

First, the underlying basis for the Findings is the purported failure to comply with N.J.S.A. 30:13-18; L. 2020, c. 112 (the “Staffing Law”), which establishes direct care staff-to-resident ratios in excess of those set by N.J.A.C. 8:39-25.2. The Staffing Law mandates that, notwithstanding any other staffing requirements elsewhere established by law, nursing homes must maintain one certified nurse aide (“CNA”) to every eight residents for the day shift, one direct care staff member to every ten residents for the evening shift, and one direct care staff member to every fourteen residents for the night shift. As we believe the Division is aware, and as we are prepared to demonstrate through both expert and lay testimony, there are insufficient CNAs and direct care staff in New Jersey to fulfill the Staffing Law’s mandates. The nursing home industry as a whole—of which the Facility is a member—is thus not able to comply with the impossible Staffing Law despite good faith efforts. If compliance with a law is factually or legally impossible, then the law

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is unconstitutional. See Brunetti v. Borough of New Milford, 68 N.J. 576, 599 (1975) (“Statutory provisions which are unworkable and impossible to comply with may be invalidated on the ground that they constitute a denial of substantive due process.”); Grp. Health Ins. of N.J. v. Howell, 43 N.J. 104, 112 (1964) (“A regulation which in practice is illusory or impossible to comply with is arbitrary and oppressive and would violate due process.”). Indeed, the Staffing Law is the subject of an ongoing legal challenge for that very reason, in which the Court has already rejected the Defendants’ efforts to dismiss the complaint. See Health Care Association of N.J. v. New Jersey Department of Health, MER-L-1712-24. The Findings cannot stand.

Second, even assuming that the Staffing Law were constitutional (it is not), the Findings do not demonstrate how any of the Facility’s claims forms filed in July 2023 contain materially false, misleading, or inaccurate information such that the Facility’s claims are not “true, accurate, and complete” in violation of N.J.A.C. 10:49-9.8(a). The Division does not identify any specific misrepresentation in any of the Facility’s claim forms during the relevant time period. Nor has the Division identified any legal requirement that the Facility certify its compliance with the Staffing Law as a condition to payment of its Medicaid claims. In any event, any penalty or recovery based on the Staffing Law is inappropriate given its unconstitutionality. Therefore, the Division has no legal basis to recover the \$367,590 in payments made to the Facility or to impose the civil monetary penalty of the same amount.

Third, the Division has not identified a legal basis for the additional civil monetary penalty of \$367,590. N.J.A.C. 8:43E-3.4(a) states that the New Jersey Department of Health “may” assess certain penalties in its discretion for certain violations. The Division has not identified any provision authorizing the Division to impose civil penalties for alleged violations of the Staffing Law. The Division’s authority to impose civil monetary penalties generally is codified in N.J.A.C. 19:70-4.4(a) and N.J.S.A. 30:4D-17. Neither provides a basis for the Division to seek civil penalties in the absence of a material misrepresentation knowingly made. As explained above, the Division has failed to identify any material misrepresentation on the Facility’s part in the Facility’s claims forms. Accordingly, the Division has no basis for a civil monetary penalty of \$367,590.

Fourth, even assuming that the Staffing Law were constitutional (it is not) or that the Division otherwise had valid factual or legal bases to impose the above civil monetary penalties (it does not), the penalty is arbitrary, capricious, and otherwise excessive. Indeed, the Superior Court of New Jersey has already accepted that fining health care facilities for failing to comply with the impossible mandates of the Staffing Law would violate constitutional guarantees against excessive fines and penalties. See Health Care Association of N.J. v. New Jersey Department of Health, MER-L-1712-24.

The Facility therefore objects to the Findings and formally requests review in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.*, and 52:14F-1 *et seq.* At any future administrative or judicial proceeding, the Facility reserves the right to supplement the above arguments, as well as to provide testimony and other documentary evidence in its defense.

Thank you for your attention to this matter.

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Respectfully submitted,

/s/ Peter Slocum

Peter Slocum

cc: Anish Patel, Esq.
Julie A. Minicozzi, Esq.