



Dave Yost • Auditor of State

**BRENDA L. YOUNG, LPN
FRANKLIN COUNTY**

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ACRONYMS

AOS	Auditor of State
ASP	All Services Plan
HC	Home Care
LPN	Licensed Practical Nurse
MITS	Medicaid Information Technology System
ODJFS	Ohio Department of Job and Family Services
PDN	Private Duty Nursing
POC	Plan of Care
RN	Registered Nurse

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Dave Yost • Auditor of State

Independent Accountant's Report on Medicaid Provider Reimbursements

Brenda L. Young, LPN
1360 Reserve Drive
Reynoldsburg, Ohio 43068

RE: *Medicaid Provider Number 2227889*

Dear Ms. Young,

The Auditor of State performed an audit of Medicaid reimbursements made to Brenda L. Young, LPN, Ohio Medicaid Provider No. 2227889 (the "Provider"), during the period of July 1, 2006 to June 30, 2009. The Provider furnishes private duty nursing and waiver nursing services to Ohio Medicaid patients. Our audit was performed according to our authority in Section 117.10 of the Ohio Revised Code and our Letter of Arrangement with the Ohio Department of Job and Family Services (ODJFS).

We identified \$12,071.20 in findings for improper charges to Ohio Medicaid based on reimbursements that did not meet the Medicaid rules in effect at the time the services were provided. We also assessed interest in the amount of \$2,576.95 according to Ohio Admin. Code § 5101:3-1-25, for a total of \$14,648.15. The total amount of the findings and interest is repayable to ODJFS as of the release of this audit report. Additional interest of \$2.65 per day will accrue after March 8, 2012, until repaid.

Background

Title XIX of the Social Security Act, known as Medicaid, provides federal cost-sharing for each state's Medicaid program. Medicaid provides health coverage to families with low incomes, children, pregnant women, and people who are aged, blind, or who have disabilities. In Ohio, the Medicaid program is administered by ODJFS.

Hospitals, long-term care facilities, managed care organizations, individual practitioners, laboratories, medical equipment suppliers, and others (all called "providers") render medical, dental, laboratory, and other services to Medicaid patients. The rules and regulations that providers must follow are specified by ODJFS in the Ohio Administrative Code and the Ohio Medicaid Provider Handbook. A fundamental concept underlying the Medicaid program is medical necessity of services: defined as services which are necessary for the diagnosis or treatment of disease, illness, or injury, and which, among other things, meet requirements for reimbursement of Medicaid covered services. See Ohio Admin. Code § 5101:3-1-01(A).

The Auditor of State performs audits to assess provider compliance with reimbursement rules to ensure that services billed to Ohio Medicaid are properly documented and consistent with professional standards of care, medical necessity, and sound fiscal, business, or medical practices. According to Ohio Admin. Code § 5101:3-1-17.2(D), Medicaid providers must "maintain all records necessary and in such form so as to fully disclose the extent of services provided and significant business transactions" for a period of six years or until any audit initiated within the six year period is completed. When the AOS identifies fraud, waste or abuse by a provider in an audit,¹ any amount in excess of that legitimately due to the provider will be recouped by ODJFS through its office of fiscal

¹ "Fraud" is an intentional deception, false statement, or misrepresentation made with the knowledge that the deception, false statement, or misrepresentation could result in some unauthorized benefit to oneself or another person. "Waste and abuse" are defined as practices that are inconsistent with professional standards of care; medical necessity; or sound fiscal, business, or, medical practices; and that constitute an overutilization of Medicaid covered services and result in an unnecessary cost to the Medicaid program. Ohio Admin. Code § 5101:3-1-29(A).

and monitoring services, the state auditor, or the office of the attorney general.” Ohio Admin. Code § 5101:3-1-29(B).

Some Ohio Medicaid patients may be eligible to receive home care (HC) nursing services provided by a registered nurse (RN) or a licensed practical nurse (LPN) under the supervision of a RN. See Ohio Admin. Code §§ 5101:3-12-02(A) and 5101:3-46-04(A)(1). Qualifying HC nursing services must be medically necessary. *Id.* HC nursing services may include private duty nursing (PDN) services, waiver nursing services, or both. See *e.g.*, Ohio Admin. Code §§ 5101:3-12-02 and 5101:3-46-04. PDN services must be greater than four but no more than twelve hours in length, unless an authorized exception applies. Ohio Admin. Code § 5101:3-12-02(A). Waiver nursing services are limited to the hours authorized in an all services plan (ASP) prepared by the case manager. Ohio Admin. Code § 5101:3-46-04(A)(3)(d).

LPNs providing HC services, such as the Provider here, must be under the supervision of a RN. For waiver nursing, the supervising RN must hold a supervisory meeting every 60 days with the LPN, and every 120 days with the LPN and the patient. Ohio Admin. Code § 5101:3-46-04(A)(5). During those visits, the RN must evaluate the LPN's performance and assure that the waiver nursing services are provided according to a physician's plan of care (POC). *Id.* The LPN must be identified by name as the provider on the ASP and skilled nursing services must be specified in the POC. Ohio Admin. Code § 5101:3-46-04(A)(4)(d).

LPNs providing HC nursing services at the direction of an RN must maintain records for each patient containing all of the information listed in Ohio Admin. Code § 5101:3-12-03 (B) and (C)(4)² including:

- Signed and dated certification by the treating physician of treatment plans at least every 60 days (§ 5101:3-12-03 (B)(3)(b));
- Contents of the plans of care (POC) specifying the services to be performed, the identity of the professionals performing them, and the nature, frequency, scope, and duration of each service provided (§ 5101:3-12-03 (B)(3)(b)); and
- Clinical records (including all signed orders) and time keeping records documenting the details of each visit including the date, type and time span of services provided (§ 5101:3-12-03 (C)(4)(a) and (b)²).

Ohio Medicaid will only pay the LPN for services provided to the patient as specified by the POC, and which services are properly documented. Ohio Admin. Code § 5101:3-12-02(C)(2).

When a patient is on an ODJFS administered waiver program and receives waiver nursing or personal care aide services, an all services plan (ASP) is required in addition to the POC for all of the services provided. Ohio Admin. Code § 5101:3-12-03.1(C). The ASP lists all Medicaid home health services approved for the patient including PDN services, and the type, frequency, scope, and duration of services under the waiver program. The ASP also specifies which providers can render services and subsequently bill Ohio Medicaid for them. See Ohio Admin. Code § 5101:3-45-01(D).

Nurses providing both PDN services and waiver nursing services to the same patient, and nurses providing PDN services to Medicaid patients who also receive waiver nursing or personal aide services from another provider, must comply with the rules for the waiver program. Ohio Admin. Code §§ 5101:3-12-02(C)(2) and 5101:3-12-03.1(C). They must also maintain a clinical record for

² Section number changed from (C)(3) to (C)(4) on November 8, 2007 with no change to content.

each patient indicating the date, time span, and type of services provided. See Ohio Admin. Code §§ 5101:3-12-03.1(A)(2), 5101:3-12-03(C)(3), 5101:3-12-03(B)(2) and 5101:3-45-10(A)(11).

Here the Provider provided PDN services, waiver nursing and/or personal care aide services to Medicaid patients. In all cases the patients were on an ODJFS administered waiver program so that the Provider was required to comply with the waiver program requirement of an ASP and maintain clinical records for all patients. See Ohio Admin Code 5101:3-12-03.1(C) and 5101:3-46-04(A)(6).

Purpose, Scope, and Methodology

The purpose of this audit was to determine whether the Provider's Medicaid claims for reimbursement of medical services were in compliance with regulations and to identify, if appropriate, any findings resulting from non-compliance.

We held an entrance conference with the Provider on March 30, 2011, to discuss the purpose and scope of the audit. The scope of the audit was limited to claims for services the Provider rendered to Ohio Medicaid patients and received payment during the period of July 1, 2006 to June 30, 2009. The Provider was reimbursed \$275,971.70 for 1,269 services rendered during the audit period.

We reviewed the Provider's paid claims history from ODJFS' Medicaid Information Technology System (MITS) database of services billed to and paid by the Ohio Medicaid program. This claims data included: patient name, patient identification number, date of service, and service rendered.

Prior to beginning our audit fieldwork, we performed a series of computerized tests on the Provider's Medicaid payments to determine if reimbursements were made for potentially inappropriate services or service code combinations. The exception tests analyzed:

- Dates of service where the Provider billed 16 or more hours of service for a single patient;
- Dates of service where the Provider billed multiple different procedure codes for the same patient; and
- Whether there were claims billed for the same patient, for the same procedure, for the same date, without using a modifier to show that a second visit occurred on that date.

Our exception tests did not reveal potential duplicate or excessive services billed by the Provider in these categories.

We also conducted a 100 percent review of all ASPs and POCs for the patients who received services from the Provider during the audit period, to determine if the Provider received any inappropriate reimbursements. Our review was performed between August, 2010 and May, 2011.

Results

We identified findings of \$12,071.20 from our 100 percent review of the Provider's POCs and ASPs as discussed below.

Ohio Medicaid rules require that nurses perform PDN services and waiver nursing services according to an approved plan of care. This plan of care consists of "signed and dated written orders from the treating physician" and must be recertified by the treating physician every 60 days. Ohio Admin. Code § 5101:3-12-03(B)(3)(b) A plan of care must contain a description of the type, frequency, scope, and duration of the nursing services that are to be performed. Ohio Admin. Code §§ 5101:3-12-

03(B)(3)(b) and 5101:3-12-02(B)(2) Services not included in the plans of care are not reimbursable. Ohio Admin. Code § 5101:3-12-02(C)(2)

We requested all of the POCs submitted for those patients who received PDN services during the audit period. During our review we compared the number of hours of PDN services authorized by the treating physician via the POC by patient, to the number of hours *billed* for the date span of each POC.

Our review identified 64 of the 1,269 billed services lacking a valid POC covering the service. Two POCs purportedly covering 22 of the services were invalid since they were signed by the physician more than three years after the services were rendered and billed. The POC submitted to support the other 42 services was invalid since it was not signed by a physician – it contained a photocopy of the physician's signature from the previous POC and an altered date. We calculated the amount reimbursed to the Provider for these unauthorized PDN services and a finding is made for \$12,047.20.

We also reviewed the ASPs obtained from ODJFS for all of the patients for whom the Provider billed Ohio Medicaid for HC nursing services during the audit period. We compared the number of hours billed for nursing services to the number of hours approved by the case manager in the ASPs for the date span of each ASP.

Our comparison revealed 41 services where the Provider billed the Ohio Medicaid program for more nursing services than were approved by the case manager in the ASP, and one service where the Provider billed for personal aide services which were not authorized by an ASP. Based on discussions with ODJFS we did not take findings for the services billed in excess of the ASP however we caution the Provider that future overbilling may result in findings. We did make a finding for the one service where the Provider billed for an unauthorized personal aide service in the amount of \$24.00.

Conclusion

We found the Provider was overpaid by Ohio Medicaid for home care nursing services between July 1, 2006 and June 30, 2009 in the amount of \$12,071.20. This finding plus interest in the amount of \$2,576.95 totaling \$14,648.15, is immediately due and payable to ODJFS as of the date of release of this audit report. After March 8, 2012, additional interest will accrue at the rate of \$2.65 per day until the finding and interest is paid in full.

Provider Response

A draft report along with a detailed list of services for which we took findings was mailed to the Provider on December 16, 2011, and the Provider was afforded an opportunity to respond to this audit report. We received a written response from the Provider on January 9, 2012. The Provider furnished additional documentation to support the services billed. We reviewed the additional documentation and adjusted our findings as appropriate. We sent a revised draft report to the Provider on February 1, 2012, and held an exit conference with the Provider on February 16, 2012. We adjusted our findings as appropriate following the exit conference.

We are forwarding this report to ODJFS because it is the state agency charged with administering Ohio's Medicaid program. ODJFS is responsible for making a final determination regarding recovery of our findings and any accrued interest. If you agree with the findings contained herein, you may expedite repayment by contacting ODJFS' Office of Legal Services at (614) 466-4605.

Copies of this report are also being sent to the Medicaid Fraud Control Unit of the Ohio Attorney General's Office; the U.S. Department of Health and Human Services/Office of Inspector General; and the Ohio Board of Nursing. In addition, copies are available to the public on the Auditor of State website at www.auditor.state.oh.us.

Questions regarding this report should be directed to Charles H. Brown, III, Chief, Medicaid Contract Audit Section, at (614) 466-7894 or toll free at (800) 282-0370.

Sincerely,

A handwritten signature in black ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D".

Dave Yost
Auditor of State

March 8, 2012

cc: Ohio Attorney General, Medicaid Fraud Control Unit
Ohio Department of Job and Family Services, Surveillance and Utilization Review Section
U. S. Department of Health and Human Services/Office of Inspector General
Ohio Board of Nursing

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BRENDA L. YOUNG, LPN

FRANKLIN COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
MARCH 8, 2012**