



OHIO AUDITOR OF STATE
KEITH FABER



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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO PSYCHOTHERAPY SERVICES

Ohio Department of Medicaid
50 West Town Street, Suite 400
Columbus, Ohio 43215

RE: Thomas J. Funk, Jr., LLC DBA Clinical Counseling Group
Ohio Medicaid Number: 0213027
National Provider Identifier: 1124016522

We examined compliance with specified Medicaid requirements during the period of July 1, 2019 through June 30, 2021 for provider qualifications, service documentation and service authorization for the provision of psychotherapy – 60-minute services for Thomas J. Funk, Jr., LLC DBA Clinical Counseling Group (Clinical Counseling Group).

We also tested the following select payments:

- Psychotherapy services reimbursed for the same recipient and date of service as a psychiatric diagnostic evaluation;
- Greater than one psychotherapy service reimbursed for the same recipient and date of service; and
- Payments for services that were not provided as reported by the identified rendering practitioner.

Clinical Counseling Group entered into an agreement with the Ohio Department of Medicaid (the Department) to provide services to Medicaid recipients and to adhere to the terms of the provider agreement, Ohio Revised Code, Ohio Administrative Code, and federal statutes and rules, including the duty to maintain all records necessary and in such form to fully disclose the extent of services provided and significant business transactions. Clinical Counseling Group is responsible for its compliance with the specified requirements. The Compliance Section of this report identifies the specific requirements examined. Our responsibility is to express an opinion on Clinical Counseling Group's compliance with the specified Medicaid requirements based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA). Those standards require that we plan and perform the examination to obtain reasonable assurance about whether Clinical Counseling Group complied, in all material respects, with the specified requirements detailed in the Compliance Section. We are required to be independent of Clinical Counseling Group and to meet our ethical responsibilities, in accordance with the ethical requirements established by the AICPA related to our compliance examination.

An examination involves performing procedures to obtain evidence about whether Clinical Counseling Group complied with the specified requirements. The nature, timing and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our modified opinion. Our examination does not provide a legal determination on Clinical Counseling Group's compliance with the specified requirements.

Internal Control over Compliance

Clinical Counseling Group is responsible for establishing and maintaining effective internal control over compliance with the Medicaid requirements. We did not perform any test of the internal controls and we did not rely on the internal controls in determining our examination procedures. Accordingly, we do not express an opinion on the effectiveness of the Clinical Counseling Group's internal control over compliance.

Basis for Qualified Opinion

Our examination disclosed that, in a material number of instances, Clinical Counseling Group did not have documentation to support the selected Medicaid reimbursements.

Qualified Opinion on Compliance

In our opinion, except for the effects of the matter described in the Basis for Qualified Opinion paragraph, Clinical Counseling Group has complied in all material respects, with the selected requirements of the provision of psychotherapy – 60 minute services for the period of July 1, 2019 through June 30, 2021.

Our testing was limited to the specified Medicaid requirements detailed in the Compliance Section. We did not test other requirements and, accordingly, we do not express an opinion on Clinical Counseling Group's compliance with other requirements.

We identified improper Medicaid payments in the amount of \$8,030.82. This finding plus interest in the amount of \$1,156.44 (calculated as of June 12, 2023) totaling \$9,187.26 is due and payable to the Department upon its adoption and adjudication of this examination report. Services billed to and reimbursed by the Department, which are not validated in the records, are subject to recoupment through the audit process. If waste and abuse¹ are suspected or apparent, the Department and/or the Office of the Attorney General will take action to gain compliance and recoup inappropriate or excess payments. Ohio Admin. Code § 5160-1-29(B).

This report is intended solely for the information and use of Clinical Counseling Group, the Department, and other regulatory and oversight bodies, and is not intended to be, and should not be used by anyone other than these specified parties.



Keith Faber
Auditor of State
Columbus, Ohio

June 12, 2023

¹ "Waste and abuse" are 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 § 5160-1-29(A).

COMPLIANCE SECTION

Background

Title XIX of the Social Security Act, known as Medicaid, provides federal cost-sharing for each State's Medicaid program. The rules and regulations for the program are specified in the Ohio Administrative Code and the Ohio Revised Code. 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 from receipt of payment or until any audit initiated within the six year period is completed. Providers must furnish such records for audit and review purposes. See Ohio Admin. Code § 5160-1-17.2(D) and (E).

Clinical Counseling Group is a clinical counseling provider (Type 47) and received payment of \$323,097 in managed care payments for 3,977 services².

Purpose, Scope, and Methodology

The purpose of this examination was to determine whether Clinical Counseling Group's claims for payment complied with Ohio Medicaid regulations. Please note that all rules and code sections relied upon in this report were those in effect during the examination period and may be different from those currently in effect. The scope of the engagement was limited to select payments for psychotherapy services as specified below for which Clinical Counseling Group billed with dates of service from July 1, 2019 through June 30, 2021 and received payment.

We obtained Clinical Counseling Group's claims from two Ohio managed care organizations and verified that the services were paid to Clinical Counseling Group's tax identification number. From the MCO claims data, we removed services paid at zero and services with a third-party payment. From the remaining total paid services, we selected the following in this order:

- Psychotherapy services reimbursed on the same RDOS³ as a diagnostic evaluation (procedure codes 90791 and 90837) (Psychotherapy on the Same RDOS as a Diagnostic Evaluation Exception Test);
- Greater than one psychotherapy service reimbursed on the same RDOS (procedure codes 90834 and 90837) (Greater than One Psychotherapy Service on an RDOS Exception Test);
- A random sample of psychotherapy – 60-minute services (procedure code 90837) (Psychotherapy – 60 Minutes Sample); and
- Services reported as not rendered (procedure code 90837) (Services Reported as Not Performed Exception Test).

The exception tests and calculated sample size are shown in **Table 1**.

Table 1: Exception Tests and Sample		
Universe	Population Size	Selected Services
Psychotherapy on the Same RDOS as a Diagnostic Evaluation	2	2
Greater than One Psychotherapy Service on an RDOS	89	89
Services Reported as Not Performed	26	26
Psychotherapy – 60 Minutes Sample	2,632	189
Total	2,749	306

² Payment data from the Medicaid Information Technology System (MITS).

³ RDOS is defined as all services for a given recipient on a specific date of service.

Purpose, Scope, and Methodology (Continued)

A notification letter was sent to Clinical Counseling Group setting forth the purpose and scope of the examination. During the entrance conference, Clinical Counseling Group described its documentation practices and billing process. During fieldwork, we obtained an understanding of the manual record system used, reviewed service documentation, and verified professional licensure. We sent preliminary results to Clinical Counseling Group, and it subsequently submitted additional documentation which we reviewed for compliance prior to the completion of our fieldwork.

Results

The summary results are shown in **Table 2**. While certain services had more than one error, only one finding was made per service. The non-compliance and basis for findings is discussed below in further detail.

Table 2: Results				
Universe	Services Examined	Non-compliant Services	Non-compliance Errors	Improper Payment
Exception Tests				
Psychotherapy on the Same RDOS as Diagnostic Evaluation	2	2	2	\$139.38
Greater Than One Psychotherapy Service on an RDOS	89	57	57	\$4,144.53
Services Reported as Not Performed	26	26	26	\$1,934.94
Sample				
Psychotherapy – 60 Minutes	189	23	25	\$1,811.97
Total	306	108	110	\$8,030.82

During our on-site fieldwork at the Clinical Counseling Group office, we noted a recipient file that did not contain a treatment plan. We inquired with the rendering practitioner to obtain the missing plan and, after a brief time, the practitioner returned with the file and stated the treatment plan was present. Upon further inquiry, the practitioner admitted that “he found the treatment plan on his computer, printed it and back dated it.” Based on this information, we did not apply this treatment plan to our testing.

Also, during field work one of the practitioners in the group practice reported that he had recently seen a claim summary which he then compared to his records for the 26 recipients included in our testing. He indicated that he found payments for services that he did not render and he was unaware of how these services were erroneously billed. This practitioner stated that, in addition to the errors already identified by the auditors, he found an additional 38 services, billed identifying him as the rendering practitioner, that he did not provide.

We confirmed that 36 of these 38 services were paid and that 26 of these paid services had dates of service that fell within our examination period. See Section D below for improper payment related to these 26 services.

A. Provider Qualifications

Exclusion or Suspension List

Per Ohio Admin. Code § 5160-1-17.2(H), in signing the Medicaid provider agreement, a provider agrees that the individual practitioner or employee of the company is not currently subject to sanction under Medicare, Medicaid, or Title XX or is otherwise prohibited from providing services to Medicaid beneficiaries.

We identified eight providers in the service documentation and compared their names to the Office of Inspector General exclusion database and the Department's exclusion/suspension list. We found no matches.

Licenses or Certifications

For the eight licensed practitioners identified in the service documentation, we verified via the e-License Ohio Professional Licensure System that their licenses were current and valid on the first date of service found in our testing and were active during the remainder of the examination period.

B. Service Documentation

Documentation requirements include the date, time of day, and duration of service contact. See Ohio Admin. Code §§ 5160-1-27(C) and 5160-8-05(F). We compared Clinical Counseling Group's documentation to the required elements. We also compared the procedure code billed to documented duration to ensure the services met the required duration.

The medical record must substantiate all relevant diagnoses pertaining to medical or physical conditions as well as to behavioral health. See Ohio Admin. Code § 5160-8-05(F)(1)(a).

Greater Than One Psychotherapy Service on an RDOS Exception Test

The 89 services examined contained 55 instances in which there was no documentation to support the reimbursement and two instances in which the procedure code reimbursed was not supported by the documented duration of the session. These 57 errors resulted in the improper payment amount of \$4,144.53.

Psychotherapy Services Sample

The 189 services examined contained the following errors:

- 20 instances in which there was no documentation to support the reimbursement;
- 3 instances in which the procedure code reimbursed was not supported by the documented duration; and
- 1 instance in which there was no diagnostic evaluation and the documentation did not indicate medical necessity for the service performed;

These 24 errors are included in the improper payment amount of \$1,811.97.

Recommendation

Clinical Counseling Group should develop and implement procedures to ensure that all service documentation and billing practices fully comply with requirements contained in Ohio Medicaid rules. In addition, Clinical Counseling Group should implement a quality review process to ensure that documentation is complete and accurate prior to submitting claims for reimbursement. Clinical Counseling Group should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

C. Authorization to Provide Services

Treatment Plans

A treatment plan must be completed within five sessions or one month of admission, whichever is longer, must specify mutually agreed treatment goals and track responses to treatment and is expected to bear the signature of the professional who recorded it. See Ohio Admin. Code § 5160-8-05(F)(1)(b).

Greater Than One Psychotherapy Service on an RDOS Exception Test

The 89 services examined contained a treatment plan with treatment goals.

Psychotherapy Services Sample

The 189 services examined contained one instance in which there was no treatment plan. This one error is included in the improper payment amount of \$1,811.97.

Recommendation

Clinical Counseling Group should develop and implement procedures to ensure that all service authorizations fully comply with requirements contained in Ohio Medicaid rules. In addition, Clinical Counseling Group should implement a quality review process to ensure that service authorizations are complete and accurate prior to submitting claims for reimbursement. Counseling Group should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

D. Medicaid Limitations

Diagnostic Evaluations

Diagnostic evaluations are limited to one encounter, per code, per billing provider, per recipient, per calendar year, not on the same date of service as a therapeutic visit. See Ohio Admin. Code § 5160-8-05(D)(3)(a). We confirmed with the MCO that paid for the selected services that it imposed the same limitation as the Ohio Administrative Code during the examination period.

Psychotherapy on the Same RDOS as Diagnostic Evaluation

Clinical Counseling Group rendered two psychotherapy services examined on the same date of service as a diagnostic evaluation. These two errors resulted in an improper payment of \$139.38.

Claim Submission

Per Ohio Admin. Code § 5160-1-17.2(A), by signing the Medicaid Provider Agreement the provider agrees to comply with the terms of the provider agreement, Revised Code, Administrative Code, and federal statutes and rules; and the provider certifies and agrees to submit claims only for services actually performed.

Services Reported as Not Performed Exception Test

Of the 38 services self-reported as not performed, 26 were during our examination period and confirmed as paid in MITS. These 26 errors resulted in an improper payment of \$1,934.94.

D. Medicaid Limitations (Continued)

Recommendation

Clinical Counseling Group should develop and implement procedures to ensure that services billed to Medicaid are consistent with the benefits covered by the program. In addition, Clinical Counseling Group should review its billings and return all payments that were received for services not rendered to the Department. Clinical Counseling Group should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

Official Response

Clinical Counseling Group declined to submit an official response to the results noted above.

OHIO AUDITOR OF STATE KEITH FABER



THOMAS J. FUNK JR., LLC DBA CLINICAL COUNSELING GROUP

STARK COUNTY

AUDITOR OF STATE OF OHIO CERTIFICATION

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



Certified for Release 7/25/2023

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This report is a matter of public record and is available online at
www.ohioauditor.gov