



Mary Taylor, CPA
Auditor of State

Ohio Medicaid Program

*Audit of Medicaid Reimbursements Made to
Adult Latchkey, Inc.*

A Compliance Audit by the:

Medicaid/Contract Audit Section



Mary Taylor, CPA

Auditor of State

June 10, 2010

Jeanne M. Jackson, President
Peter J. Jackson, Vice-President
Adult Latchkey, Inc.
13205 Chapleside Avenue
Cleveland, Ohio 44120

Dear President and Vice-President Jackson:

Attached is our report on Medicaid reimbursements made to Adult Latchkey, Inc., Medicaid provider number 2277067, for the period July 1, 2004 through June 30, 2009. Our audit was performed in accordance with 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 \$802,612.53 in findings plus \$65,440.41 in interest accruals totaling \$868,052.94 that are repayable to ODJFS. The findings in the report are a result of non-compliance with Medicaid reimbursement rules published in the Ohio Administrative Code. After June 10, 2010, additional interest will accrue at \$175.92 per day until repayment occurs. Interest is calculated pursuant to Ohio Administrative Code Section 5101:3-1-25.

We are forwarding this report to ODJFS because as the state agency charged with administering Ohio's Medicaid program, ODJFS is responsible for making a final determination regarding recovery of the findings and any accrued interest. However, if you are in agreement 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 being sent to Adult Latchkey, Inc.; ODJFS; 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 Medical Transportation Board. In addition, copies are available on the Auditor of State website at (www.auditor.state.oh.us).

Jeanne and Peter Jackson
June 10, 2010
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Questions regarding this report should be directed to Jeffrey Castle, Chief Auditor of the Medicaid/Contract Audit Section, at (614) 466-7894 or toll free at (800) 282-0370.

Sincerely,

A handwritten signature in cursive script that reads "Mary Taylor".

Mary Taylor, CPA
Auditor of State

cc: Ohio Department of Job and Family Services
Medicaid Fraud Control Unit, Ohio Attorney General
U. S. Department of Health and Human Services/Office of Inspector General
Ohio Medical Transportation Board

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ACRONYMS

AOS	Auditor of State
CMN	Certification of Medical Necessity
CMS	Centers for Medicare and Medicaid Services
CPT	Current Procedural Terminology
HCPCS	Healthcare Common Procedural Coding System
HIPAA	Health Insurance Portability and Accountability Act
MMIS	Medicaid Management Information System
ODJFS	Ohio Department of Job and Family Services
Ohio Admin.Code	Ohio Administrative Code
Ohio Rev.Code	Ohio Revised Code
RDOS	Recipient Date of Service

SUMMARY OF RESULTS

The Auditor of State performed an audit of Adult Latchkey, Inc. (hereafter called the Provider), provider number 2277067, headquartered at 13205 Chapleside Avenue, Cleveland, Ohio 44120. Within the Medicaid program, the Provider is listed as an ambulette service provider. An ambulette is a vehicle designed to transport individuals sitting in wheelchairs.

We performed our audit in accordance with Ohio Rev.Code §117.10 and our letter of arrangement with the Ohio Department of Job and Family Services (ODJFS). As a result of this audit, we identified \$802,612.53 in findings, based on reimbursements that did not meet the rules of the Ohio Administrative Code.¹ Additionally, we assessed accrued interest of \$65,440.41 in accordance with Ohio Admin.Code 5101:3-1-25, for a total of \$868,052.94, which is repayable to ODJFS as of the release of this audit report. Additional interest of \$175.92 per day will accrue after June 10, 2010, until repayment.

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 recipients. 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.² The Auditor of State, working with ODJFS, performs audits to assess Medicaid providers’ compliance with reimbursement rules to ensure that services billed are properly documented and consistent with professional standards of care; medical necessity; and sound fiscal, business, or medical practices.

Ohio Admin.Code 5101:3-1-29(B)(2) states: “ ‘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 5101:3-1-17.2(D) states that providers are required: “To maintain all records necessary and in such form so as to fully disclose the extent of services provided and significant business transactions. The provider will maintain such records for a period of six years from the

¹ Compliance testing was based on the rules as they existed at the time the service was rendered.

² See Ohio Admin Code 5101:3-1-01(A) and (A)(6).

date of receipt of payment based upon those records or until any audit initiated within the six year period is completed.”

In addition, Ohio Admin.Code 5101:3-1-29(A) states in part: “...In all instances of fraud, waste, and abuse, any amount in excess of that legitimately due to the provider will be recouped by the department through its surveillance and utilization review section, the state auditor, or the office of the attorney general.”

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.

Following a notification letter, we held an entrance conference at the Provider’s headquarters on April 15, 2010, to discuss the purpose and scope of our audit. The scope of our audit involved transportation claims for which the Provider rendered ambulance services to Medicaid patients and received payment during the period of July 1, 2004 through June 30, 2009. During the audit period, the Provider was reimbursed \$802,612.53 for 62,504 services billed on 15,691 claims.

We used the Ohio Revised Code and the Ohio Administrative Code as guidance in determining the extent of services and applicable reimbursement rates. We obtained the Provider’s paid claims history from ODJFS’ Medicaid Management Information System (MMIS), which contains an electronic file of services billed to and paid by the Medicaid program. This claims data included but was not limited to: patient name, patient identification number, date of service, and service rendered. Services are billed using Healthcare Common Procedural Coding System (HCPCS) codes issued by the federal government through the Centers for Medicare & Medicaid Services (CMS).³

Prior to beginning our fieldwork, we reviewed information (including interviews) obtained through a joint investigation of the Provider conducted by the U.S. Department of Health and Human Services’ Office of Inspector General’s (OIG) and Ohio Attorney General’s Medicaid Fraud Control Unit (MFCU). Ultimately, the investigation was closed and returned to the AOS for audit. After reviewing information obtained by the OIG and MFCU, we performed a series of computerized tests and analyses on the Provider’s Medicaid payments to not only corroborate information obtained through the investigation but to determine if reimbursements were made for

³ These codes have been adopted for use as the Health Insurance Portability and Accountability Act (HIPAA) transaction data set and are required to be used by states in administering Medicaid. There are three levels to the HCPCS. The first level is the five (5) digit Current Procedural Terminology (CPT) coding system for physician and non physician services promulgated by the American Medical Association. The second level entails alpha-numeric codes for physician and non physician services not included in the CPT codes and are maintained jointly by CMS and other medical and insurance carrier associations. The third level is made up of local level codes needed by contractors and state agencies in processing Medicare and Medicaid claims. Under HIPAA, the level three codes are being phased out but may have been in use during our audit period.

potentially inappropriate services or service code combinations. These tests and analyses included the following:

- Potential duplicate claims where payments were made for the same recipient on the same date of service, and for the same procedure codes and procedure code modifiers.
- Claims for transport services billed while the recipient was a hospital inpatient.
- Claims for recipients whom the Provider identified to MFCU investigators as being non-wheelchair bound (i.e., ambulatory and not reimbursable).
- Claims with multiple-passenger modifiers since MFCU investigators had evidence that the Provider transported multiple passengers during the same trip, which require special billing modifiers to avoid overpayment.
- Claims for transports to a medical service reimbursable under Medicaid fee-for-service (e.g., physician, dentist, physical therapy, etc.).

Our analyses showed that the Provider only billed for trips to and from its adult daycare center. We therefore decided not to immediately segregate the claims into a series of samples and exception tests but to first assess whether they were even covered by Medicaid fee-for-service or a Medicaid waiver program. We also decided to gather evidence to determine if the Provider had proper and sufficient documentation to support the services billed if in fact they were covered by Medicaid fee-for-service.

Our fieldwork was performed between April and May 2010.

RESULTS

We determined that the Provider should not have billed Medicaid fee-for-service for any of its transportation services during the audit period.

Further, even if it was allowable to bill Medicaid fee-for-service, the Provider lacked the necessary supporting documentation and billed for patients not eligible for transport as they were not wheelchair bound. We therefore identified findings of \$802,612.53, the bases of which are discussed below.

Ambulette Services

Issues with Service Coverage

Ohio Admin.Code 5101:3-15-03 states in pertinent part:

(E) Service limitations

The following services are not covered:

- (7) Services available to the patient through county contract or the non-emergency transportation (NET) program as specified in Chapter 5101:3-24 of the Administrative Code.

- (9) Transportation of a patient for purposes other than for the receipt of medicaid covered services;

- (12) Transport to a certified habilitation center that has been billed to the department.

- (13) Transport to services that are covered by any HCBS waivers specified in division-level 5101:3 of the Administrative Code.

Our review of the data submitted by the Provider determined that only transports to and from its adult daycare facility were billed. All claims were billed to fee-for-service Medicaid and only two of the recipients transported were identified as being in one of the eight Medicaid waiver programs in Ohio. Adult day care or adult day support is a waiver only service and is not covered by fee-for-service Medicaid. Therefore, since only two of the recipients were in a waiver program, nearly all were being transported to a location for non-Medicaid covered services and the cost of the transport was not covered by fee-for-service Medicaid.

The Provider's day care center has a separate provider number and agreement with ODJFS to provide waiver services. This day care center also has separate agreements to provide waiver services through home and community-based service (HCBS) waiver programs administered by the Ohio Department of Aging and the Ohio Department of Developmental Disabilities. However, as noted above in Ohio Admin.Code 5101:3-15-03 (E)(13), all transports to services covered by any HCBS waiver are *expressly not covered* by fee-for-service Medicaid. Thus, although two of the recipients were in a waiver program and received a covered adult day care service, their transportation services would not have been covered by fee-for-service Medicaid.

Therefore, we denied the entire reimbursement of \$802,612.53 for all 15,691 claims because none of the 62,504 services were to services covered by fee-for-service Medicaid.

Issues with Certificates of Medical Necessity

Ohio Admin.Code 5101:3-15-02 states in pertinent part:

(E) Documentation requirements

- (1) Providers of air ambulance, ambulance and ambulette services must maintain records which fully describe the extent of services provided. Services are not eligible for reimbursement if documentation specified is not obtained prior to billing the department and maintained in accordance with paragraphs (E)(2)(a) to (E)(2)(d) of this rule.

- (2) Records which must be maintained include...

- (b) The original “practitioner certification form”, completed by the attending practitioner documenting the medical necessity of the transport, in accordance with this rule; and...

- (4) Practitioner certification form

- (d) The practitioner certification form is required to certify that ambulance and ambulette services are medically necessary. The completed practitioner certification form must be signed and dated no more than one hundred eighty days after the first date of transport. The completed, signed and dated practitioner certification form must be obtained by the transportation provider before billing the department for the transport. The date of signature entered on the practitioner certification form must be the date that the practitioner certification form was actually signed and must be prior to the date of the claim submission.

As part of our audit, we requested all practitioner certification forms (i.e., CMNs), which certify the medical necessity and the type of transport required, for all recipients and transports provided during the audit period. Based on our review of all CMNs provided, we determined that all were incomplete and therefore invalid. Consequently, none of the services billed were medically justified and therefore did not meet the primary requirement for all Medicaid reimbursement – that of being medically necessary.

Therefore, the reimbursement of \$802,612.53 for all transportation services is denied. While services were denied for more than one reason, only one finding was made per service.

Patients Deemed Non-Ambulatory or Non-Wheelchair Bound

Ohio Admin.Code 5101:3-15-03 states in pertinent part:

(B) Ambulette services coverage and limitations

(2) Covered ambulette transports:

Except as provided elsewhere in this chapter, ambulette services are covered only when all the requirements in this paragraph are met.

(a) The ambulette services must be medically necessary as specified below:

(i) The individual has been determined and certified by the attending practitioner to be nonambulatory at the time of transport as defined in paragraph (A)(20) of rule 5101:3-15-01 of the Administrative Code;

(e) The individual must actually be transported in a wheel chair.

Additionally, Ohio Admin.Code 5101:3-15-01 states in pertinent part:

(A) The following definitions are applicable to this chapter

(20) "Nonambulatory"...is defined as those permanently or temporarily disabling conditions which preclude transportation in motor vehicle(s) or motor carriers as defined in section 4919.75 of the Revised Code that are not modified or created for transporting a person with a disabling condition. . . .

Based on evidence gathered by OIG and MFCU investigators and corroborated through this audit, the Provider regularly transported 15 non-wheelchair bound (i.e., ambulatory) patients to and from the adult daycare facility. In fact, during the audit period, the Provider was reimbursed \$447,886.02 for ambulette services rendered to these 15 ambulatory patients that are not covered

or reimbursable under Medicaid fee-for-service. Moreover, in response to further questioning regarding ambulatory patients, the Provider stated, "We have no wheelchair patients."

Therefore, the reimbursement of \$802,612.53 for all transportation services is denied. While services were denied for more than one reason, only one finding was made per service.

Multiple Passenger Transports Billed as First Passenger Transports

Ohio Admin.Code 5101:3-15-03(B) states in pertinent part:

Ambulette services coverage and limitations

(1) Covered ambulette services

The following ambulette services are covered if the criteria for coverage is met in accordance with paragraph (B)(2) of this rule.

- (a) "Ambulette services" is the transport of one individual, or the first passenger of a multiple passenger transport in an ambulette.
- (b) "Ambulette services, second passenger" is the transport of the second passenger of a multiple passenger transport in an ambulette.
- (c) "Ambulette services, three or more passengers" is the transport of each passage over two (i.e., the third passenger, fourth, etc.) during a multiple passenger transport in a ambulette.

Ohio Admin.Code 5101:3-15-04 states in pertinent part:

(B) For the one-way transport of each additional passenger of a multiple-passenger trip, the provider is reimbursed a base amount for the service.

- (1) The base amount is the lesser of either the provider's billed charge or a fixed portion of the medicaid maximum listed in appendix DD to rule 5101:3-1-60 of the Administrative Code.
 - (a) For transport by land ambulance or by ambulette, the fixed portion for the second passenger is fifty per cent, and the fixed portion for each additional passenger thereafter is twenty-five per cent.

- (2) No reimbursement is made for loaded mileage.

- (D) In billing for services, the provider must specify certain information:

- (3) For a multi-passenger trip, whether the service was provided to the first passenger or to an additional passenger; . . .

Based on evidence gathered by OIG and MFCU investigators and corroborated through this audit, the Provider admittedly transported multiple passengers simultaneously in the same ambulette to and from its adult daycare facility. However, the Provider billed each passenger (including loaded mileage) as if he or she was the first and only passenger in the vehicle, thus maximizing the overall reimbursement.

We did not quantify the overpayment for this particular non-compliance issue as it would require additional record review and analysis that would not be warranted nor cost effective, especially in light of the fact that a finding is being issued for the Provider's entire reimbursement.

Summary of Findings

A total of \$802,612.53 in findings was identified. These findings reflect the Provider's entire reimbursement from Medicaid fee-for-service during the audit period. The findings are result of several issues but most notably the Provider transported patients to a non-Medicaid (fee-for-service) covered service – adult day care. While this type of service is reimbursable under certain Medicaid waiver programs, only two of the patients were in a Medicaid waiver program during the audit period. Services to these two patients are not covered anyway as Medicaid rules indicate that all transports to services covered by any HCBS waiver are *expressly not covered* by fee-for-service Medicaid. Further, because the Provider billed the transportation services under Medicaid fee-for-service, valid CMNs are required to justify the medical necessity of the transport. However, there were no valid CMNs to support the medical necessity of any of the ambulette services rendered. Also, the ambulette transports were for patients who were not wheelchair bound and therefore not reimbursable. Finally, the Provider admittedly transported multiple passengers simultaneously in the same ambulette but billed Medicaid as if each patient was transported individually, thus maximizing its reimbursement.

PROVIDER'S RESPONSE

A draft report was mailed to the Provider on May 7, 2010. The Provider was afforded 10 business days from the receipt of the draft report to furnish additional documentation to substantiate the services for which we took findings or otherwise respond in writing. The Provider did not submit any additional documentation but submitted a formal response on May 14, 2010, which is presented in Appendix I.

Appendix I

Adult Latchkey Inc.
13205 Chapelside Ave.
Cleveland, Ohio 44120

May 14, 2010

Stefany Blair
Senior Audit Manager
Medicaid/Contract Audit Section
Lausche Building, 12th Fl
615 West Superior Ave.
Cleveland, Ohio 44113

Dear Ms Blair

In response to the report dated May 7th we received we would like to have this letter be our official response. We have worked and lived in our community for quite some time. During that time we developed a passion to provide care for the Elderly/Disabled population. Peter worked for The Catholic Diocese 23 years. During that time we became overseers of some of their property. We were given the opportunity to provide service for our community. Adult Latchkey Inc. mission is to provide quality care for the Elderly/Disabled population in our community. To promote our clients to continue living as independently as possible in the community, while providing support and relief to their caregivers.

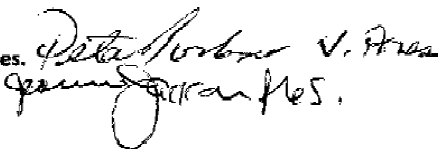
Adult Latchkey intentions have never been to cheat or take anything from anyone. It has always been to provide a well needed service for the Elderly and Disabled adults. Since Adult Latchkey has been in existence we have served with excellence to name a few of our adult day activities our clients receive breakfast, catered hot lunch, snacks, arts and craft, current events, bible study, music, socialization, exercise, games, computer access, and field trips such as Cleveland Metro Zoo, Playhouse Square, Lunch Buffet, Canal train to Peninsula, Zelma George Recreation Center, Movies Library, Dollar Store, Senior Day at City Hall, Unique Thrift store, Picnics and much more.

Adult Latchkey staff is trained and professional, background checks, drug testing First Aid and CPR, staff has training in defensive driving and transporting elderly and disabled adults, Major Unusual Incident Report. We have received numerous certificates to certify and validate our service to our community. We are sending copies of some of our certificates. We have seen clients that would not socialize initially upon attending Adult Latchkey. After attending, began to socialize and interact with others. Also some of the clients that did not have family would call Latchkey their family. We have seen elderly excited that has come in from the community to volunteer their services such as knitting, art, music, dance, storytelling, and reading.

In conclusion we have exhausted all our resources in serving this clientele. Please consider our hard work and honesty to our clients and community. That you find us not liable for any reimbursement. Please close the investigation at no cost to us. We would still like to continue to serve the Elderly and Disabled population in our community, by provided such a needed service.

Thank You,
Adult Latchkey Inc.

Peter Jackson Vice Pres.
Jeanne Jackson Pres.



Peter Jackson V. Pres.
Jeanne Jackson Pres.

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Mary Taylor, CPA
Auditor of State

ADULT LATCHKEY, INC.

CUYAHOGA 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
JUNE 10, 2010**