



Dave Yost • Auditor of State

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**APRIL L. PATINO, LPN  
PUTNAM COUNTY**

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## **INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO PRIVATE DUTY NURSING AND PERSONAL CARE AIDE SERVICES**

April L. Patino, LPN  
3077 East 11<sup>th</sup> Street  
Ottawa, Ohio 45875

RE: *Medicaid Provider Number 2548167*

Dear Ms. Patino:

We examined your (the Provider's) compliance with specified Medicaid requirements for provider qualifications and service authorization related to the provision of private duty nursing and personal care aide services during the period of January 1, 2009 through December 31, 2011. We confirmed the Provider's licensure status during the examination period and her authorization to provide services. We were unable to examine compliance with specified Medicaid requirements for service documentation because no documentation was supplied in response to the notification for this examination (see Compliance Examination Report).

### ***Provider's Responsibility***

The Provider entered into an agreement with the Ohio Department of Medicaid (ODM) to provide services to Medicaid recipients (the Provider Agreement). The Provider Agreement outlines the responsibility to adhere to the terms of the agreement, state statutes and rules, federal statutes and rules, and the regulations and policies set forth in the Medicaid Handbook including the duty to maintain records supporting claims for reimbursement made by Ohio Medicaid. Therefore, the Provider is responsible for complying with the requirements and laws outlined by the Medicaid program.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion and report on the Provider's compliance with the specified Medicaid requirements based on our examination. Our examination was performed under our authority in Section 117.10 of the Ohio Revised Code and conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We believe our examination provides a reasonable basis for our opinion. However, our examination does not provide a legal determination on the Provider's compliance with the specified Medicaid requirements.

### ***Internal Control Over Compliance***

The Provider is responsible for establishing and maintaining effective internal control over compliance with the specified Medicaid requirements referred to above. 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 Provider's internal control over compliance.

***Basis for Adverse Opinion on Medicaid Services***

Our examination disclosed that the Provider did not maintain documentation of service delivery as required. As a result, we found the Provider was overpaid by Ohio Medicaid for private duty nursing and personal care aide services between January 1, 2009 and December 31, 2011 in the amount of \$247,194.30. This finding plus interest in the amount of \$16,507.84 totaling \$263,702.14 is due and payable to the ODM upon ODM's adoption and adjudication of this examination report. After adjudication by ODM, additional interest may be assessed until the finding and interest is paid in full.

***Adverse Opinion on Compliance***

In our opinion, the Provider has not complied, in all material respects, with the aforementioned requirements pertaining to service documentation for the period of January 1, 2009 through December 31, 2011.

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

When the Auditor of State identifies fraud, waste or abuse by a provider in an examination,<sup>1</sup> any payment amount in excess of that legitimately due to the provider will be recouped by ODM, Fiscal Operations, the state auditor, or the office of the attorney general. Ohio Admin. Code § 5160-1-29(B) Therefore, a copy of this report will be forwarded to ODM because it 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 ODM's Office of Legal Services at (614) 752-3631.

This report is intended solely for the information and use of the Ohio Department of Medicaid, 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 other regulatory and oversight bodies and is not intended to be and should not be used by anyone other than these specified parties. In addition, copies are available to the public on the Auditor of State website at [www.ohioauditor.gov](http://www.ohioauditor.gov).

Sincerely,



**Dave Yost**  
Auditor of State

January 30, 2014

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<sup>1</sup> "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 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 EXAMINATION REPORT FOR APRIL L. PATINO, LPN**

### **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. 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 in the Ohio Administrative Code and the Ohio Revised Code. The 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 § 5160-1-01(A)

The Auditor of State performs examinations to assess provider compliance with Medicaid reimbursement rules to ensure that services billed to Ohio Medicaid are properly documented and consistent with professional standards of care, and medical necessity. According to Ohio Admin. Code § 5160-1-17.2(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. Providers must furnish such records for audit and review purposes. Ohio Admin. Code § 5160-1-17.2(E)

The Provider has been an Ohio Medicaid provider since 2005. The Provider's Ohio Medicaid number is 2548167 and she is a non-agency provider located in Putnam County, Ohio, who furnishes private duty nursing and personal care aide services to Medicaid recipients. The Provider received reimbursement of \$59,211.34 for 1,089 for private duty nursing and \$187,982.96 for 3,669 personal care aide services rendered to one Medicaid recipient enrolled in the Ohio Home Care Waiver and one Medicaid recipient enrolled in the Transitions Developmental Disabilities Waiver during our examination period.

Home health services under Ohio Medicaid may include private duty nursing services, waiver nursing services, or personal care aide services. See Ohio Admin. Code §§ 5160-12-02 and 5160-46-04 Private duty nursing is a medically necessary visit that is more than four hours but less than or equal to twelve hours in length. Ohio Admin Code § 5160-12-02(A) When a Medicaid recipient receiving private duty nursing care is also on an ODM administered program, an all services plan is required in addition to the plan of care. See Ohio Admin. Code § 5160-12-03.1(C) Qualifying personal care aide services are rendered to recipients in an ODM administered waiver program and are authorized in the all services plan. The all services plan is the service coordination and payment authorization document that identifies specific goals, objectives and measurable outcomes for recipient health and functioning. Ohio Admin. Code § 5160-45-01(D) Personal care aides assist the consumer with activities of daily living such as bathing, dressing, household chores and accompanying the recipient to medical appointments. See Ohio Admin. Code § 5160-46-04(B)(1)

### **Purpose, Scope, and Methodology**

The purpose of this examination was to examine Medicaid reimbursements made to the Provider and determine whether the Provider's Medicaid claims for reimbursement 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 our engagement was limited to an examination of private duty nursing and personal care aide services that the Provider rendered to Medicaid recipients and received payment during the period of January 1, 2009 through December 31, 2011.

We received the Provider's claims history from the Medicaid Management Information System (MMIS) and the Medicaid Information Technology System (MITS) database of services billed to and paid by Ohio's Medicaid program. We removed services that were paid at zero. We also obtained the structural reviews conducted by ODM (CareStar Agency) to identify areas of previously noted non-compliance.

On September 16, 2013, we contacted the Provider to notify her of the compliance examination to be conducted on her Ohio Medicaid services and an engagement letter was sent to her on the same day setting forth the purpose and scope of the examination. An entrance conference was held with the Provider on October 3, 2013. During the entrance conference, the Provider described her documentation practices, her procedures for obtaining plans of care, and her process for submitting billing to the Ohio Medicaid program.

## **Results**

### **A. Provider Qualifications**

In accordance with Ohio Admin. Code § 5101:3-12-02(A), private duty nursing requires the skills of a registered nurse (RN) or licensed practical nurse (LPN) at the direction of an RN. For the private duty nursing service to be covered, the service must be performed within the nurse's scope of practice as defined in Chapter 4723 of the Ohio Revised Code. Ohio Admin. Code § 5101:3-12-02(B)(1)

We verified through the Ohio e-License Center that the Provider is an LPN through the Ohio Board of Nursing and she was in active status during our examination period. We also verified that the Provider's supervising RN was licensed and in active status during our examination period. We did not test the provider qualifications outlined for a non-agency personal care aide as the qualifications to render nursing services require the provider to meet a higher standard.

### **Service Documentation**

Providers are required to retain all records of service delivery and billing for a period of six years after the date of receipt of the payment based on those records, or until any initiated audit is completed, whichever is longer. Ohio Admin. Code § 5101:3-45-10(A)(11)

Providers of private duty nursing services are required to maintain documentation on all aspects of the services provided that include clinical records and time keeping records that indicate date and time span of services as well as the type of service provided. See Ohio Admin. Code § 5101:3-12-03(C)(4) Personal care aides must maintain a clinical record that includes documentation of tasks performed or not performed, arrival and departure times, and dated signatures of the provider and recipient or authorized representative verifying the service delivery upon completion of service delivery. Ohio Admin. Code § 5101:3-46-04(B)(8)(g)

After our initial contact with the Provider on September 16, 2013, she contacted us and stated she went to her basement to retrieve her records and was not certain how many, if any, records she had from the examination period. On September 26, 2013, the Provider contacted us again and stated that all of her records were disposed of after water damage in her basement. She further stated that she contacted the Medicaid recipient she provided the majority of services to and found that the recipient only maintained service records for the current year. On October 3, 2013, the Provider submitted a written detail outlining the circumstances that led to the disposal of her records. This

resulted in an overpayment of \$247,194.30 for all services rendered and reimbursed by Ohio Medicaid during our examination period.

The March 15, 2011 structural review conducted by CareStar noted the Provider only submitted copies of documents obtained from the recipient for review. The Provider stated she gave originals of the daily clinical record to the recipient and maintained copies for her own records, which is contrary to Ohio Admin. Code §§ 5101:3-46-04(A)(6) and 5101:3-46-04(B)(8). The review also noted there was one date of service for which the Provider did not have service documentation. At that time recommendations were made to the Provider to improve documentation practices. The January 29, 2013 structural review conducted by CareStar again noted that the Provider only submitted copies of clinical records for review.

**Recommendation:**

The Provider should comply with the terms of the Provider agreement to furnish information maintained for audit and review purposes. The Provider should develop procedures to ensure the safe storage and maintenance of records to ensure future compliance with Medicaid rules.

**B. Service Authorization**

The individual providing personal care aide services rendered to a waiver recipient must be identified as the provider on the all services plan and personal care aide services do not include services performed in excess of the number of hours approved. Ohio Admin. Code §§ 5101:3-46-04(B)(2) and (B)(5)(b) Private duty nursing providers and services must be identified on the all services plan. Ohio Admin. Code § 5101:3-12-02(C)(2)(a)

We obtained the all services plans for the recipient on the Ohio Home Care Waiver and the recipient on the Transitions Developmental Disabilities Waiver who received services from the Provider. We reviewed the all services plans to determine if the Provider was authorized to render private duty nursing and personal care aide services to the recipients.

We found that the all services plans listed the Provider as an authorized provider and included hours authorized for private duty nursing and personal care aide services. We performed no further analysis of the all services plans due to the lack of service documentation for the entire examination period.

**Provider Response**

A draft report was mailed to the Provider on February 6, 2014, and the Provider was afforded an opportunity to respond to this examination report.

The Provider responded that soon after moving her records into her basement she experienced water damage in the basement and her clinical records were destroyed. The Provider stated that her husband mistook the records for nursing text books and burned them. She further stated that she was unaware of the records being destroyed until she was contacted by the Auditor of State's Office in regard to this examination and she has taken measures to ensure this does not occur again.

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# Dave Yost • Auditor of State

**APRIL L. PATINO, LPN**

**PUTNAM 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 11, 2014**