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HUMAN DEVELOPMENT AND COUNSELING ASSOCIATES, INC.
STARK COUNTY

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

William Mohler, President
Human Development and Counseling Associates, Inc.
4792 Munson Street NW
Canton, Ohio 44718

RE: *Medicaid Provider Number 0824362*

Dear Mr. Mohler:

We examined Human Development and Counseling Associates, Inc. (the Provider's) compliance with specified Medicaid requirements for provider qualifications, service documentation and treatment plans related to the provision of psychotherapy services during the period of January 1, 2009 through December 31, 2011. We tested service documentation to verify that there was support for the date of service and the procedure code paid by Ohio Medicaid. We also determined if there were treatment plans present when required and examined provider qualifications. The accompanying Compliance Examination Report identifies the specific requirements examined.

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 the American Institute of Certified Public Accountants' attestation standards and, accordingly, included examining, on a test basis, evidence supporting the Provider's compliance with those Medicaid requirements and performing such other procedures as we considered necessary in the circumstances. 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 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 Provider's internal control over compliance.

Basis for Adverse Opinion on Medicaid Services

Our examination disclosed that no service documentation included the face-to-face time spent with the recipient. In addition, in a material number of instances the Provider billed without a modifier to indicate a psychologist rendered the service or to indicate the level of education of the non-physician who rendered the service. We also noted a material number of instances in which the Provider did not have required treatment plan or service documentation to support reimbursed services. Finally, when treatment plans were present, they were not always signed by the supervising physician or psychologist prior to initiating therapy. The Provider declined to submit a signed representation letter acknowledging responsibility for maintaining records and complying with applicable laws and regulations regarding Ohio Medicaid reimbursement; establishing and maintaining effective internal control over compliance; making available all documentation related to compliance; and responding fully to our inquiries during the examination.

Adverse Opinion on Compliance

In our opinion, the Provider has not complied, in all material respects, with the aforementioned requirements pertaining to provider qualifications, treatment plans and 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.

We found the Provider was overpaid by Ohio Medicaid for services rendered between January 1, 2009 and December 31, 2011 in the amount of \$18,625.89 (see Results section for period to recover overpayments). This finding plus interest in the amount of \$1,867.44 totaling \$20,493.33 is due and payable to the ODM upon ODM's adjudication of this examination report. When the Auditor of State identifies fraud, waste or abuse by a provider in an examination,¹ any payment amount in excess of that legitimately due to the provider will be recouped by ODM through its Fiscal Operations, the state auditor, or the office of the attorney general. Ohio Admin. Code § 5160-1-29(B) 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.



Dave Yost
Auditor of State

May 5, 2015

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 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 HUMAN DEVELOPMENT AND COUNSELING ASSOCIATES, INC.

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 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) 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)

During the examination period, the Provider furnished services for the diagnosis and treatment of mental and emotional disorders to 175 Medicaid recipients and received reimbursement of \$66,675.60 for 1,313 services rendered on 1,269 recipient dates of service. A recipient date of service is defined as all services for a given recipient on a specific date of service. The reimbursements included the following:

- \$7,375.37 for psychiatric diagnostic interviews (procedure code 90801);
- \$13,218.72 for individual psychotherapy in an office setting – 20 to 30 minutes (procedure code 90804);
- \$45.52 for individual psychotherapy in an office setting – 20 to 30 minutes with medical evaluation and management services (procedure code 90805);
- \$25,710.74 for individual psychotherapy in an office setting – 45 to 50 minutes (procedure code 90806);
- \$2,607.44 for psychological testing (procedure code 96101);
- \$16,831.00 for evaluation and management of established patient (procedure code 99214);
- \$815.50 for evaluation and management of new patient (procedure code 99204); and
- \$71.31 for preventative medicine counseling (procedure code 99404).

The Provider employed a staff consisting of a doctor of osteopathic medicine, a psychologist and professional clinical counselors. All services were billed with Sylvester Huston, Ph.D. or Richard Langsdorf, D.O. as the rendering provider.

Ohio Medicaid recipients may be eligible to receive services for the diagnosis and treatment of mental and emotional services performed by a physician or by a licensed social worker, professional counselor or professional clinical counselor who is employed by or under contract with a physician or clinic. See Ohio Admin. Code § 5160-4-29(C)

Purpose, Scope, and Methodology

The purpose of this examination was to 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 the engagement was limited to individual psychotherapy, in office setting, 20 to 30 minutes of face-to-face time with recipient (procedure code 90804) and individual psychotherapy, in office setting, 40 to 50 minutes of face-to-face time with recipient (procedure code 90806) 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 any voids, services paid at zero, and services with third-party or Medicare co-payments. From the remaining subpopulation we extracted all individual psychotherapy procedure codes 90804 and 90806 into a separate subpopulation. From this subpopulation, we selected a simple random sample to facilitate a timely and efficient examination of the Provider's services as permitted by Ohio Admin. Code § 5160-1-27(B)(1).

An engagement letter was sent to the Provider September 4, 2014 setting forth the purpose and scope of the examination. An entrance conference was held on October 13, 2014. During the entrance conference the Provider described its documentation practices and processes for submitting billing to the Ohio Medicaid program. Our fieldwork was performed following the entrance conference.

On June 25, 2015 we attempted to contact the Provider by phone and found the number was disconnected. We also went to the Provider's office and found that although "Human Development and Counseling" was on the sign at the street, the business name on the building and door was "M.H. Consulting Serv., LLC." A search of the Secretary of State filings indicates that William Mohler is the agent/registrant, and one of two incorporators, for MH Consulting Services, LLC that became effective on December 4, 2014. We searched the MMIS database and found that the last claim submitted by the Provider for payment was on December 18, 2014. We found no claims paid to MH Consulting Services, LLC.

Results

We examined 100 psychotherapy services (procedure codes 90804 and 90806) and identified 237 errors. ODM may recover an overpayment during the five-year period immediately following the end of the state fiscal year in which the overpayment was made according to Ohio Rev. Code § 5164.57. As a result, we identified the total amount paid by Ohio Medicaid on or after July 1, 2010 for procedure codes 90804 and 90806 in our examination period, \$18,625.89, as an overpayment.

The non-compliance found during our examination and the basis for our findings is described below in more detail. While certain services had more than one error, only one finding was made per service.

A. Provider Qualifications

Services for the diagnosis and treatment of mental and emotional disorders are covered as physician services when the services are performed by a licensed social worker, professional counselor, or professional clinical counselor who is employed by or under contract with the physician or clinic as long as the services provided are within the within the licensed social worker's, professional counselor's, or professional clinical counselor's scope of practice. See Ohio Admin. Code § 5101:3-4-29(C)

Services personally provided by a licensed psychologist must be medically necessary for the diagnosis and treatment of an illness or injury to be a covered Medicaid service. See Ohio Admin. Code § 5101:3-8-05(B).

We verified through the Ohio e-License Center that Dr. Sylvester Huston was licensed as a psychologist through the Ohio Psychology Board and that his license was in active status during the examination period. We also verified that Dr. Richard Langsdorf was licensed as a doctor of osteopathic medicine through the Ohio Medical Board, with a specialty in pediatrics. Although Dr. Langsdorf's medical license was put into inactive status as of July 1, 2014, it was in active status during our entire examination period. Dr. Langsdorf did not render any services in our sample but provided the general supervision for some of the non-physician services.

We identified four non-physicians who rendered services during the examination period. We verified through the Ohio Counselor, Social Worker and Marriage and Family Therapy Board that all four non-physicians were licensed professional clinical counselors and their licenses were in active status during the examination period.

Supervision

Services performed by a clinical social worker or professional clinical counselor must be provided under the general supervision of a physician. Services rendered by non-physicians may only be billed by and reimbursed to the employing or contracting physician or clinic when the supervision provisions are met. The physician must provide supervision which, at a minimum includes discussion about the progress of the patient toward specified goals; updating treatment plans as needed; and periodic participation in therapy sessions. See Ohio Admin. Code §§ 5101:3-4-29(C) and (D)

The Provider's procedures included the use of "supervision sheets" which contained a summary of each visit the non-physician had with the recipient. The physician reviewed and commented on each summary and then signed the summary. We identified nine services, rendered by a licensed professional clinical counselor which lacked a supervision sheet or any documentation to reflect that the physician provided the required supervision, discussed treatment progress, participated in therapy or updated treatment plans. The overpayments associated with the errors that were paid on or after July 1, 2010 were included in the finding amount of \$18,625.89.

B. Modifiers

According to Ohio Admin. Code § 5101:3-4-29(G) procedure codes for services rendered by a clinical psychologist will be reimbursed as stated in Ohio Admin. Code § 5101:3-8-05 and services rendered by non-physicians must be modified to signify the level of educational training of the non-physician. For individual therapy provided by non-physicians, services will be reimbursed at the lesser of the provider's billed charge or 50 percent of the Medicaid maximum for the individual therapy code. Ohio Admin. Code § 5101:3-8-05 states ODM will pay 85 percent of the Medicaid rate for services performed by a licensed psychologist.

We reviewed 100 individual psychotherapy services and identified 59 services rendered by a psychologist or non-physician and the procedure code was not modified to signify a psychologist rendered the service or the educational training of the non-physician. As such, these services were over reimbursed by 15 percent for services rendered by a psychologist and by 50 percent for services rendered by non-physicians. The overpayments associated with the errors that were paid on or after July 1, 2010 were included in the finding amount of \$18,625.89.

C. Service Documentation

Ohio Admin. Code § 5101:3-4-29(H) states the recipient's medical record must substantiate the nature of the services billed including: the medical necessity of the services billed; information regarding the type, duration, and frequency of services, including dates of treatment sessions; the face-to-face time spent with the patient; and test results.

We limited our examination to ensuring documentation was present for services rendered and that the activity noted in the documentation generally supported the procedure code billed. We obtained the description of the procedure code from the American Medical Association's Code Manager®. If the documentation did not reflect the activity consistent with the procedure code billed, we noted it as an error.

We reviewed 100 individual psychotherapy services and identified 101 errors. These errors include:

- 90 services in which the face-to-face time spent with the recipient was not documented;
- 10 services with no documentation; and
- 1 service where the documentation did not reflect an activity consistent with the procedure code reimbursed.

The overpayments associated with the errors that were paid on or after July 1, 2010 were included in the finding amount of \$18,625.89.

The Provider stated it coded and billed each service from the electronic schedule which assumed every recipient received the scheduled service and face-to-face time unless the rendering provider notified the biller otherwise.

We noted an additional seven services where the documentation reflected family therapy but individual therapy was billed and reimbursed. The family therapy procedure code is reimbursed at a higher rate than the individual therapy code so these services are considered non-compliant but no overpayment was identified.

C. Treatment Plans

Ohio Admin. Code § 5101:3-4-29(H)(2) states that a recipient's medical record must substantiate the nature of the services billed including a treatment plan which is signed and dated by the physician prior to initiating therapy.

We reviewed 100 individual psychotherapy services and identified 30 services with no treatment plan, and 29 services where the treatment plan was not signed by a physician and a licensed professional clinical counselor rendered the service. The overpayments associated with the errors that were paid on or after July 1, 2010 were included in the finding amount of \$18,625.89.

In addition, the Provider submitted two treatment plans for services in our sample which were not signed by a physician and there was no corresponding service documentation to support the reimbursement. Since we could not determine who rendered the service, we could not determine if a physician was required to sign these two treatment plans.



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HUMAN DEVELOPMENT AND COUNSELING ASSOCIATES, INC.

STARK 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
AUGUST 25, 2015**