



Dave Yost • Auditor of State

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**VIRTUAL COMMUNITY SCHOOL OF OHIO  
FRANKLIN COUNTY**

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

Jeff Nelson, Superintendent  
Virtual Community School of Ohio  
340 Waggoner Road  
Reynoldsburg, Ohio 43068

*RE: Medicaid Provider Number 2895701*

Dear Mr. Nelson:

We examined your (the Provider's) compliance with specified Medicaid requirements for provider qualifications, service authorization and service documentation related to the provision of Medicaid School Program (MSP) services during the period of July 1, 2011 through June 30, 2013. We tested service documentation to verify that there was support for the service, the procedure code and the units billed to and paid by Ohio Medicaid. We also examined the Individualized Education Programs (IEPs) to determine if there was authorization for the service and reviewed practitioner 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 Qualified Opinion***

Our examination disclosed that in a material number of instances the Provider billed and was reimbursed for more units than were authorized on the IEP, services were rendered by practitioners without a criminal records check, and there were speech therapy services billed with the wrong procedure code and speech evaluation services with no supporting documentation. In addition, the required telehealth modifier "GT" was not used when speech therapy was provided using audio-visual technology.

***Qualified Opinion on Compliance***

In our opinion, except for the effects of the matters described in the Basis for Qualified Opinion paragraph, the Provider has complied, in all material respects, with the aforementioned requirements for the period of July 1, 2011 through June 30, 2013.

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 ODM for services rendered between July 1, 2011 and June 30, 2013 in the amount of \$4,474.41. This finding plus interest in the amount of \$219.52 totaling \$4,693.93 is due and payable to ODM upon its adjudication of this examination report. 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, 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 ODM, 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).



**Dave Yost**  
Auditor of State

November 2, 2015

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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 VIRTUAL COMMUNITY SCHOOL OF OHIO

### 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(B). 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 is a community school that offers online education and is sponsored by Reynoldsburg City Schools. The Provider billed for physical and occupational therapy services and speech-language pathology services through the MSP during our examination period and received a total reimbursement of \$23,879.76 for 579 services 19 unique recipients on 252 dates of service.

Eligible recipients of MSP services are children between the ages of three to twenty-one who have an IEP which includes services that are allowable under Medicaid. See Ohio Admin. Code § 5160-35-01(A)(6) The only provider of MSP services are city, local or exempted village school districts, state schools for the blind and deaf and community schools according to Ohio Admin. Code § 5160-35-02(B)(1).

### 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 included all procedure codes the Provider billed to Ohio Medicaid and received payment for during the period of July 1, 2011 through June 30, 2013. These procedure codes included:

- 92506 – Speech evaluation;
- 92507 – Speech therapy (individual);
- 97003 – Occupational therapy evaluation; and
- 97110 and 97530 – Occupational or physical therapy therapeutic procedures or activities (individual).

We received the Provider's claims history from the Medicaid Information Technology System (MITS) database of services billed to and paid by Ohio's Medicaid program for MSP. We removed any voids and services paid at zero. From this sub-population we extracted all speech evaluation services (procedure code 92506) to review as an exception test. From the remaining sub-population we randomly selected five recipients. We then extracted all services for those recipients that were billed to and paid by Ohio Medicaid during the examination period. This resulted in a sample size of 290 services 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 on May 22, 2015 setting forth the purpose and scope of the examination. An entrance conference was held on June 2, 2015. During the entrance

conference, the Provider described its MSP program which consisted of contracting for all MSP services. The Provider contracted with several companies to provide the MSP services and the individual practitioners (therapists) are contracted employees of these companies. The Provider contacted the therapy company when there was a new student and provided the IEP for that student. The name of a therapist was then given to the Provider and it shared that information with the parent(s) or guardian(s). MSP services were recorded and signed electronically by the rendering therapist in an electronic health record (EHR) and were billed to Ohio Medicaid by a contracted billing company directly from this EHR system. The EHR indicated that MSP services were rendered at clinics, practitioner offices, recipient homes and at school. The Provider stated that it printed documentation for each MSP service and placed it in the applicable recipient file but we found this was not the case; the Provider could not provide us with service documentation so we obtained it from the billing company. In addition, the Provider had no process to verify MSP services were rendered as authorized on the IEP, no process to review documentation in the EHR prior to billing, and no process to review remittance advices. Our fieldwork was performed following the entrance conference. The Provider was given multiple opportunities to provide additional documentation before we compiled our results.

## Results

We examined seven speech evaluation services (procedure code 92506) as an exception test and identified seven errors. As a result, we identified \$103.86, as an overpayment.

We examined a random sample of 290 services provided to five unique recipients and identified 101 errors. The overpayments identified for 4 of 5 recipients (84 of 290 services) from our statistical random sample were projected across the Provider's subpopulation of paid services (less speech evaluation services). This resulted in a projected overpayment amount of \$5,122.52 with a 95 percent certainty and a precision of plus or minus \$896.02. Since the precision percentage achieved was greater than our procedures require for use of a point estimate, a one-tailed lower limit estimate (equivalent to method used in Medicare audits), was made at the 95 percent confidence level. This allows us to say that we are 95 percent certain that the population overpayment amount is at least \$4,370.55. A detailed summary of our statistical sample and projection results is presented in **Appendix I**.

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

### A. Provider Qualifications

According to Ohio Admin. Code § 5101:3-35-02(C), a MSP provider shall ensure all employees and contractors who have in-person contact with recipients undergo and successfully complete criminal records checks pursuant to Ohio Rev. Code § 5111.032.

In addition, Ohio Admin. Code § 5101:3-35-05(B) states qualified practitioners who can deliver services through the MSP must be a licensed occupational therapist, occupational therapy assistant, physical therapist, physical therapy assistant, speech-language pathologist, speech-language pathology aide, audiologist, audiology aide, registered nurse, practical nurse, clinical counselor, counselor, independent social worker, social worker, psychologist or school psychologist.

We noted one licensed occupational therapist without a criminal records check and one licensed physical therapist that did not have a criminal records check until November 17, 2011. We concluded that the 31 services rendered by these therapists prior to a criminal records check were non-compliant and are included in the finding amount of \$4,370.55.

### **A. Provider Qualifications (Continued)**

We verified through the Ohio e-License Center and the Ohio Department of Education that all practitioners who rendered services in our sample were appropriately licensed and held a valid license during the examination period.

In addition to the error for the occupational therapist without a criminal records check, the Provider did not maintain copies of criminal records checks for 12 of the remaining 13 practitioners who rendered services in our sample. The Provider stated it relied on the contracted therapy companies to ensure that the criminal records checks were completed however we found no provision for this function in any of the contracts the Provider supplied to us. While we obtained verification from the Ohio Department of Education that these practitioners successfully completed the required criminal records checks, we were unable to gain assurance that the Provider ever ensured the background checks were successfully completed.

#### **Recommendation:**

The Provider should verify that all practitioners complete the required criminal records checks and should review the results to ensure that individual is eligible to provide services. The Provider should address the identified issue to ensure the safety of students in addition to compliance with Medicaid rules and to avoid future findings.

### **B. Supervision Requirements**

Ohio Admin. Code § 5101:3-35-05(B)(1)(b)(ii) states licensed occupational therapy assistants shall practice under the general supervision of a licensed occupational therapist who is employed or contracted by the Provider. Ohio Admin. Code § 5101:3-35-01(A)(6) defines general supervision as the licensed practitioner being immediately available, but not necessarily present, and requires an interactive process which shall include initial and periodic face-to-face contact with the recipient and routine consult with the assistant. Finally, services that are not provided under the appropriate supervision and/or at the appropriate direction of a licensed practitioner are not allowable per Ohio Admin. Code § 5101:3-35-05(C)(14).

The Provider did not submit any documentation from any of its contracted therapy vendors that demonstrated that general supervision for one licensed occupational assistant occurred. There was no documentation showing initial and periodic face-to-face assessments/evaluations between the licensed practitioner and the recipient or routine consultation between the assistant and practitioner before start of services. We concluded the eight services rendered by occupational therapy assistant without documented general supervision were non-compliant and are included in the finding amount of \$4,370.55.

#### **Recommendation:**

The Provider should ensure that all licensed assistants are appropriately supervised as required and that evidence of the supervision is maintained. The Provider should address the identified issue to ensure compliance with Medicaid rules and avoid future findings.

### **C. Service Documentation**

Ohio Admin. Code § 5101:3-35-05(G) states that documentation for the provision of each service must be maintained and include the date the activity was provided, a description of the service, procedure and method provided, group size, duration in minutes or time in/time out and signature or initials of the person delivering the service.

### **C. Service Documentation Continued**

In addition, Ohio Admin. Code § 5101:3-35-05(C)(13) states that services provided on days or at times when the recipient is not in attendance are not allowable for reimbursement.

We limited our examination to ensuring documentation was present for services rendered, that the definition of the procedural code billed was consistent with the service documented (including limitations), the units billed matched the minutes documented, the date of the service on the documentation matched the service date billed and the recipient was in attendance on the date of service.

#### *Statistical Sample*

We reviewed 290 services in our random sample and identified the following noncompliance:

- 2 occupational therapy evaluations (procedure code 97003) in which the Provider had no supporting documentation;
- 2 services in which the narrative indicated the service was not rendered; and
- 1 service in which the narrative states "progress reporting" with no indication of service provision.

In the three instances in which service documentation was provided, the "Present" field was marked "yes" and there was a start and end time recorded. The overpayments associated with the five errors described above are included in the finding amount of \$4,370.55.

We also noted 16 speech therapy services in which the Provider documented the location as "online" that were not billed with a telehealth (GT) modifier to designate the services were rendered via audio-visual technology. Although there is no reimbursement differential for telehealth services, this modifier is required by ODM.

#### *Exception Test*

We reviewed seven speech evaluation services (procedure code 92506). The documentation provided for five of these services indicated that speech therapy was provided not a speech evaluation. While these five services were billed using the incorrect procedure code, these errors did not result in an overpayment. The Provider did not submit service documentation to support the remaining two speech evaluation services and, as a result, we identified \$103.86 as an overpayment.

#### **Recommendation:**

The Provider should develop and implement internal controls to ensure that only services actually rendered are billed and that services are properly modified. In addition, the Provider should review billing processes to ensure that services are billed with correct procedure code. The Provider should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

**D. Individualized Education Programs**

Services not indicated on the recipient's IEP prior to the provision of the service are not allowable for reimbursement. In addition, the IEP shall include specific services, including the amount, duration and frequency. Ohio Admin. Code §§ 5101:3-35-05(C)(11) and 5101:3-35-05(F)(3)

We identified 41 services in which the Provider billed for services not authorized on the IEP or billed for more units than were authorized on the IEP. The overpayments associated with these 41 errors are included in the finding amount of \$4,370.55.

**Recommendation:**

The Provider should develop and implement internal controls to ensure only services specified in the IEP are billed to Ohio Medicaid. The Provider should address the identified issue to ensure compliance with Medicaid rules and avoid future findings.

**APPENDIX I**

**Summary of Statistical Sample Analysis  
 Examination Period: July 1, 2011 – June 30, 2013**

**POPULATION**

The population is all paid Medicaid School Program services where the service was performed and payment was made by ODM.

**SAMPLING FRAME**

The sampling frame was paid and processed claims from MITS. This system contains all Medicaid payments and all adjustments made to Medicaid payments by the State of Ohio.

**SAMPLE UNIT**

The primary sampling unit was a Medicaid recipient and paid services were the secondary units.

**SAMPLE DESIGN**

We used a simple cluster random sample.

<b>Description</b>	<b>Results</b>
Number of Population Recipients (Primary Unit)	17
Number of Population Recipients Sampled	5
Number of Population Recipients with Errors	4
Number of Population Services	572
Number of Population Services Sampled (Secondary Unit)	290
Number of Services Sampled with Errors	84
Total Medicaid Amount Paid for Population	\$23,496.32
Amount Paid for Population Services Sampled	\$12,213.91
Estimated Population Overpayment Amount (Point Estimate)	\$5,122.52
Precision of Estimate at 95 Percent Confidence Level	\$896.02
Precision of Estimate at 90 Percent Confidence Level	\$751.97
Single-tailed Lower Limit Overpayment Estimate at 95% Confidence Level (Calculated by subtracting the 90 percent overpayment precision from the point estimate.) (Equivalent to method used by HHS/OIG in Medicare audits.)	\$4,370.55

Source: Analysis of MITS information and the Provider's records.



# Dave Yost • Auditor of State

**VIRTUAL COMMUNITY SCHOOL OF OHIO**

**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  
NOVEMBER 17, 2015**