



OHIO AUDITOR OF STATE  
**KEITH FABER**





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## **INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO SELECT PROFESSIONAL MEDICAL GROUP SERVICES**

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

RE: Patrick Muffley, DO, LLC, dba Embody Wellness Obstetrics & Gynecology  
Ohio Medicaid Number: 0061035 NPI: 1841563145

We were engaged to examine compliance with specified Medicaid requirements for select payments for Patrick Muffley, DO, LLC, dba Embody Wellness Obstetrics & Gynecology during the period of January 11, 2018 through December 31, 2020.

Embody Wellness Obstetrics & Gynecology 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 so as to fully disclose the extent of services provided and significant business transactions. Embody Wellness Obstetrics & Gynecology is responsible for its compliance with the specified requirements.

The Compliance Section of this report identifies the specific requirements included in the engagement. We are required to be independent of Embody Wellness Obstetrics & Gynecology and to meet our ethical responsibilities, in accordance with the ethical requirements established by the American Institute of Certified Public Accountants related to our compliance examination.

### ***Internal Control over Compliance***

Embody Wellness Obstetrics & Gynecology is responsible for establishing and maintaining effective internal controls 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 Embody Wellness Obstetrics & Gynecology's internal controls over compliance.

### ***Basis for Disclaimer of Opinion***

Embody Wellness Obstetrics & Gynecology billed 292 services with the date of service of December 11, 2019 under Dr. Muffley's national provider identifier (NPI). These services include 93 drug tests (80305), 94 alcohol breathalyzers (82075), 11 intermediate smoking and tobacco use cessation counseling visits (99406), two low level evaluation and management of an established patient (99213) and 92 moderate level evaluation and management of an established patient (99214).

We verified that Dr. Muffley was identified as the rendering practitioner based on the service documentation for the 105 of these services (11 smoking cessation counseling and 94 evaluation and management services). Using the Centers for Medicare and Medicaid Services (CMS) Physician Work Time calculation, an estimated 66 hours would be needed to render these 11 smoking cessation counseling and 94 evaluation and management services<sup>1</sup>.

Dr. Muffley was identified as the rendering practitioner on 28,562 evaluation and management of an established patient services on 558 dates during our examination period ranging from one to 95 services per day for an average of 51 evaluation and management services per day. Again, using the CMS Physician Work Time calculation, an estimate of approximately 32 hours per day would be needed to render this average number of evaluation management services.

The electronic health record for one service shows that one recipient was checked in at 8:53 am and the office manager inputs data on chief complaint and vitals (height, weight, temperature) at 9:13. Dr. Muffley reviews this information at 9:23 and signed the clinical note (closing the note) at 9:27 which is 4 minutes after he reviewed the information input by the office manager. A moderate level evaluation and management of an established patient (procedure code 99214) was reimbursed for this visit. CMS indicates that the expected amount of time a physician should spend with a patient for this level of service is 40 minutes.

In his response to our inquiries, Dr. Muffley stated that he bills based on complexity and not time as allowed by the current procedural terminology (CPT) code.

We also noted inconsistencies within documentation which resulted in concerns around the reliability of the documentation. Examples of these inconsistencies include:

- For one recipient, the electronic health system indicated the start time began with a search of the patient record at 10:06 and the note was closed at 10:19, indicating 13 minutes of service; however, the documentation stated the duration was 20 minutes;
- Documentation for a psychotherapy service stated the recipient's hair was not combed and she appeared to be pale while the office visit documentation for the same date indicated the recipient was well-groomed and well dressed;
- Documentation for male recipients included the pronoun "she"; and
- Documentation for an office visit stated the recipient was fatigued but in multiple other instances within the same document it stated the recipient was not fatigued.

### ***Disclaimer of Compliance***

Our responsibility is to express an opinion on Embody Wellness Obstetrics & Gynecology's compliance with select Medicaid requirements based on conducting the examination in accordance with attestation standards established by the American Institute of Certified Public Accountants. Because of the limitation on the scope of our examination discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on Embody Wellness Obstetrics & Gynecology's compliance with the specified Medicaid requirements for the period of January 11, 2018 through December 31, 2020.

We identified improper Medicaid payments in the amount of \$14,605.10. This finding plus interest in the amount of \$777.27 (calculated as of June 27, 2022) totaling \$15,382.37 is due and payable to the Department upon its adoption and adjudication of this examination report.

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<sup>1</sup> The 66 hours do not include drug tests and breathalyzers as these services could be billed with Dr. Muffley as the rendering practitioner but administered by another staff member.

During this examination, as we requested supporting documentation and communicated areas of non-compliance, Embody Wellness Obstetrics & Gynecology submitted two checks to one of Ohio's Medicaid managed care organizations (MCO) and submitted the detailed payments that comprised these two amounts. We compared these detailed payments to the improper payments identified as a result of our procedures and determined that \$ 654.55 of the findings in this report were included in the two checks. Should the Department agree that these amounts could be recouped by the MCO<sup>2</sup>, \$13,950.55 remains as the outstanding improper payment.

Services billed to and reimbursed by the Department, which are not validated in the records, are subject to recoupment through the audit process. See Ohio Admin. Code § 5160-1-27. If waste and abuse 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.<sup>3</sup> Ohio Admin. Code § 5160-1-29(B).

This report is intended solely for the information and use of 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 27, 2022

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<sup>2</sup> Appendix I of the provider agreement between ODM and the MCOs state that the MCO may not act to recoup improperly paid funds that are being audited by the Ohio Auditor of State (AOS).

<sup>3</sup> "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).

Embody Wellness Obstetrics & Gynecology is a Professional Medical Group located in Columbus, Ohio. Under the provider number examined, Embody Wellness Obstetrics & Gynecology received payment of \$25,944 for fee-for-service claims and \$3,361,809 from five Ohio MCOs for a total of \$3,387,753<sup>4</sup>.

### Purpose, Scope, and Methodology

The purpose of this examination was to determine whether Embody Wellness Obstetrics & Gynecology'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 professional medical group services as specified below for which Embody Wellness Obstetrics & Gynecology billed with dates of service from January 11, 2018 through December 31, 2020 and received payment. We obtained paid claims data totaling \$3,025,184 from one MCO to use for this examination and verified that all services were paid to Embody Wellness Obstetrics & Gynecology's tax identification number. We removed all services paid at zero.

From the total paid services population, we identified instances in which the same recipient was reimbursed for the same service code twice on the same date, by a different rendering practitioner. We extracted all recipient dates of service (RDOS) meeting this criteria. An RDOS is defined as all services for a given recipient on a specific date of service. We selected a statistical sample of these RDOS (Potential Duplicate Sample). The sample includes the following services: psychotherapy (procedure codes 90833, 90836, and 90838); office visit for the evaluation and management of established patient (99213 and 99214); and intensive smoking and tobacco use cessation counseling visit, greater than 10 minutes (99407).

From the remaining population we determined the date with the highest number of services reimbursed. We extracted all reimbursements with service date of December 11, 2019 (December 11, 2019 Date of Service Exception Test). This exception test includes the following services: presumptive drug tests (80305); alcohol breath test (82075), psychotherapy (90836), group psychotherapy (90853), office visit for the evaluation and management of established patient (99213 and 99214) and smoking and tobacco use cessation counseling visit; intermediate, between three and 10 minutes (99406).

From the remaining population we selected all instances in which a chronic care management service (99490) was reimbursed for the same recipient more than once per calendar month (Chronic Care Management Services Exceeding Limitation Exception Test).

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<sup>4</sup> Payment data from the Medicaid Information Technology System (MITS).

**Purpose, Scope, and Methodology (Continued)**

Finally, we determined that the month with the most services reimbursed was October, 2018 and we extracted all services for the five recipients with the highest number of reimbursements in that month for an exception test (Five Recipients with Highest Number of Services in October, 2018 Exception Test). This exception test includes presumptive drug tests (80305); alcohol breath test (82075); psychotherapy services (90836 and 90838); office visit for the evaluation and management of established patient (99213 and 99214); smoking and intermediate tobacco use cessation counseling visit, between three and 10 minutes (99406); and chronic care management service (99490).

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

<b>Table 1: Exception Test and Samples</b>			
<b>Universe</b>	<b>Population Size</b>	<b>Sample Size</b>	<b>Selected Services</b>
<b>Exception Tests</b>			
December 11, 2019 (Date of Service)	340		340
Chronic Care Management Services Exceeding Limitation	44		44
Five Recipients with Highest Number of Services in October, 2018	110		110
<b>Sample</b>			
Same Recipient, Date of Service and Procedure Code Billed Twice (Potential Duplicate Sample)	143 RDOS	55 RDOS	204
<b>Total</b>			698

A notification letter was sent to Embody Wellness Obstetrics & Gynecology setting forth the purpose and scope of the examination. During the entrance conference, Embody Wellness Obstetrics & Gynecology described its documentation practices and billing process. During fieldwork, we obtained an understanding of the electronic health record system used by Embody Wellness Obstetrics & Gynecology, reviewed service documentation and verified professional licensure or certification.

We sent preliminary results to Embody Wellness Obstetrics & Gynecology and it subsequently submitted additional documentation which we reviewed for compliance prior to the completion of our fieldwork. We also reviewed the practice's official response and updated results as identified in the Official Response and AOS Conclusion section of this report.

**Results**

In total we identified non-compliance with the Medicaid requirements in 124 of the 698 payments (17.8 percent) tested. There were 132 errors identified in the 124 payments and we calculated the total improper payment of \$14,605.10. 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.

The improper payment for the potential duplicate sample was based on 100 percent error in the sample population for services billed under the NPI of L. Levinson, a Licensed Professional Clinical Counselor (LPCC). In its official response, the practice stated that services were billed under Dr. Muffley's NPI as he was the supervisor of the rendering practitioners.

While the examination was in process, we communicated with the practice regarding the potential errors we found. Embody Wellness Obstetrics & Gynecology then refunded an amount to the MCO for select chronic care management services. This payment contained some of the errors we identified in our procedure.

In addition, after receiving our final request for records which includes non-compliant payments identified as of that date, Embody Wellness Obstetrics & Gynecology sent a second check to the MCO. We compared the detailed services that were included in the second check to the results of our procedures. This check did not contain any of the payments we identified as non-compliant in the final results.

The details of the refunded amounts were provided to the Department in a separate correspondence.

#### **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. Per Ohio Admin. Code § 5160-8-05 a rendering provider is required to have a valid license at the time of service being rendered.

We identified five practitioners in the service documentation for the selected services and compared the names to the Office of Inspector General exclusion database and the Department's exclusion/suspension list. We also compared identified administrative staff names to the same database and exclusion/suspension list. We found no matches.

For the three licensed practitioners and two certified practitioners, we verified via the Ohio e-License Center website that their licenses or certifications were current and valid on the first date of service found in our selected services and were active during the remainder of the examination period.

We found one practitioner who signed a service document with a credential she did not have on that date. We did not identify an improper payment for this instance as her previous certification met the qualification requirement to render the service.

#### **Recommendation**

We recommend Embody Wellness Obstetrics & Gynecology ensure practitioners include the correct credentials with their signature.

#### **B. Service Documentation**

Documentation requirements include the date, time of day, and duration of service contact. See Ohio Admin. Code § 5160-8-05(F). For errors where units billed exceeded the documented duration, the improper payment was based on the unsupported units.

##### *December 11, 2019 Exception Test*

The 340 services examined contained documentation for each service.



*Chronic Care Management Services Exceeding Limitation*

Per Ohio Admin. Code § 5160-1-19, claims must be submitted pursuant to the national correct coding initiative and coding standards set forth in the following guides including the current procedure terminology (CPT) codebook. The CPT codebook specifies that chronic care management services include the establishment, implementation, revision or monitoring of a comprehensive care plan, coordination of care provided by other agencies and professionals, and education to patient and/or caregiver for a patient that has two or more chronic conditions and that this service should only be reported once per month.

The 44 services examined contained the following errors:

- 22 instances in which more than 1 chronic care condition was reimbursed for the same recipient in 1 month;
- 4 instances in which the documentation indicated the patient did not have 2 or more chronic conditions;
- 3 instances in which there was no chronic care plan; and
- 1 instance in which there was no documentation to support the service.

These 30 errors resulted in an improper payment amount of \$757.90. After being informed of these errors, Embody Wellness Obstetrics & Gynecology sent the MCO a check and detailed list of chronic care management services. We confirmed with the MCO that the list submitted with the payment included all but three of the errors identified in this examination. The remaining three services that were not included result in an improper payment of \$103.35.

Embodly Wellness Obstetrics & Gynecology indicated that these errors stemmed from the therapist counting every four weeks for the service rather than once a calendar month. Other instances were due to a switch in therapist and the new therapist was not aware of when the last Chronic Care Management service was completed. Embodly Wellness Obstetrics & Gynecology reported that it no longer bills this service.

*Five Recipients with Highest Number of Services in October, 2018*

The 110 services examined contained documentation for each service.

We also noted that 93 of the 94 recipients who were reimbursed for an office visit for the evaluation and management of a patient were also reimbursed for an alcohol breathalyzer (procedure code 82075). Dr. Muffley stated he performs a breathalyzer on every recipient prior to an office visit to ensure the person is not under the influence at the time of the service. In the service documentation we noted no indication of any recipient suspected of being under the influence and recipients with as many as four years of sobriety who were given a breathalyzer.

*Potential Duplicate Sample*

The 204 services examined contained 102 instances in which there was no documentation to support the service. These 102 errors are included in the projected improper payment amount of \$13,847.20.

These errors are based on the services billed identifying an LPCC as the rendering practitioner. The errors include office visit for the evaluation and management of established patient (99213 and 99214). We confirmed with the LPCC that she never provided office visit for the evaluation and management of established patient services. Embodly Wellness Obstetrics & Gynecology confirmed that this LPCC did not render any of the services in the sample and indicated the errors were made by its billing company. In addition, the practice indicated that the practitioners identified on the documentation were supervised by Dr. Muffley.

### **Recommendation**

Embodly Wellness Obstetrics & Gynecology 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, Embodly Wellness Obstetrics & Gynecology should implement a quality review process to ensure that documentation is present, complete, accurate and within the billing limitations prior to submitting claims for reimbursement.

### **Official Response and AOS Conclusion**

*Embodly Wellness Obstetrics & Gynecology disagreed with the results of the examination and denied any noncompliance and improper payment. It submitted copies of checks sent to the MCO to address issues raised by the examination prior to the release of this report and stated that as a result of these two checks that the examination results should be removed and the examination closed.*

The results and improper payments identified in this report are a result of the procedures we have performed. We never instructed the practice to submit any payment to the MCO. Appendix I of the provider agreement between ODM and the MCOs state that the MCO may not act to recoup improperly paid funds that are being audited by the Ohio Auditor of State (AOS).

While the preliminary results did include information on the checks made payable to the MCO, we further compared the detailed services included with the copies of the checks to our results and updated the report with additional language to reflect the impact on our reported improper payment.

*Embodly Wellness Obstetrics & Gynecology indicated there were errors in the numbers in the report and that services were included in multiple tests.*

We reviewed numbers in the report and found no errors. We submitted an initial list of records requested for the examination and also requested additional records during site visit. It appears that the practice did not include the additional records in its numbers. In addition, we confirmed that no payment was included in more than one test.

*Embodly Wellness Obstetrics & Gynecology was denied due process as it was not afforded opportunity to respond to tests in which there were no errors.*

During the examination we provided preliminary instances of non-compliance to give the practice the final opportunity to submit additional information. We do not include those payments that were found to be compliant in this final request.

*Dr. Muffley takes less time to render services to his patients and this is an indicator of his efficiency.*

No improper payments were identified based on the comparison to CMS's Physician Work Time calculation. This information was used in forming the basis for the opinion.

*Services rendered by Chemical Dependency Counselor Assistants (CDCAs) were billed under Dr. Muffley's NPI as these were "incident to" services. None of the services in the potential duplicate test were rendered by the L. Levinson, LPCC.*

We noted that Dr. Muffley and H. Smith, LPCC were documented as supervisors on the supporting documentation. We revised results to identify improper payment for only the payments billed with the L. Levinson, LPCC as rendering practitioner in the Potential Duplicate Sample.

# OHIO AUDITOR OF STATE KEITH FABER



**PATRICK MUFFLEY, DO, LLC DBA EMBODY WELLNESS OBSTETRICS & GYNECOLOGY**

**FRANKLIN 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 9/20/2022**

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This report is a matter of public record and is available online at  
[www.ohioauditor.gov](http://www.ohioauditor.gov)