THE SEAL OF THE AUDITOR OF STATE OF OHIO

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

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

RE: Neurobehavioral Medicine Consultants, P.C. Inc.
Ohio Medicaid Numbers: 3020519, 0088699 & 0290151
National Provider Identifiers (NPIs): 1922335231, 1336571587 & 1629560172

We examined compliance with specified Medicaid requirements during the period of January 1, 2019 through December 31, 2020 for provider qualifications, service documentation and service authorization related to the provision of community psychiatric support treatment (CPST) services and provider qualifications and service documentation related to the provision of mental health nursing services and evaluation and management of a patient (office visits) on the same day for the same recipient for Neurobehavioral Medicine Consultants, P.C. Inc. (Neurobehavioral).

We also tested the following select payments:

- All instances in which an office visit, CPST, mental health nursing or assertive community treatment (ACT) service was billed for the same recipient on the same day as a substance use disorder (SUD) residential treatment service;
- All instances in which a recipient had more than 30 consecutive days in a calendar year for the first and/or second admission in a SUD residential treatment program and all instances for the recipient's third admission within a calendar year;
- All instances in which more than four units per month of ACT service were billed for the same recipient;
- All instances in which more than one psychiatric diagnostic evaluation was billed for the same recipient within the same calendar year; and
- All instances with more than one per diem code for the same recipient on the same day.

Neurobehavioral 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. Management of Neurobehavioral is responsible for its compliance with the specified requirements. The Compliance Section of this report identifies the specific requirements examined. Our responsibility is to express an opinion on Neurobehavioral's compliance with the specified Medicaid requirements based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA). Those standards require that we plan and perform the examination to obtain reasonable assurance about whether Neurobehavioral complied, in all material respects, with the specified requirements referenced above. We are required to be independent of Neurobehavioral and to meet our ethical responsibilities, in accordance with the ethical requirements established by the AICPA related to our compliance examination.

An examination involves performing procedures to obtain evidence about whether Neurobehavioral complied with the specified requirements. The nature, timing and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our modified opinion. Our examination does not provide a legal determination on Neurobehavioral's compliance with the specified requirements.

Internal Control over Compliance

Neurobehavioral 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 Neurobehavioral's internal control over compliance.

Basis for Qualified Opinion

Our examination disclosed that, in a material number of instances, there was either no treatment plan or the units billed exceeded the documented duration for CPST services. In addition, we found that Neurobehavioral exceeded coverage limitations in all of the five selected payment areas tested.

Qualified Opinion on Compliance

In our opinion, except for the effects of the matters described in the Basis for Qualified Opinion paragraph, Neurobehavioral complied, in all material respects, with the select requirements of CPST services and RN services and office visits on the same day for the same recipient for the period of January 1, 2019 through December 31, 2020. Our testing was limited to the specified Medicaid requirements detailed in the Compliance Section. We did not test other requirements and, accordingly, we do not express an opinion on Neurobehavioral's compliance with other requirements.

We identified improper Medicaid payments in the amount of $24,332.33. This finding plus interest in the amount of $3,184.87 (calculated as of February 14, 2023) totaling $27,517.20 is due and payable to the Department upon its adoption and adjudication of this examination report. 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.[1] Ohio Admin. Code § 5160-1-29(B). This report is intended solely for the information and use of Neurobehavioral, 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

February 14, 2023

[1] "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)

Neurobehavioral is an Ohio Department of Mental Health and Addictions Services certified agency (Type 84 & 95) and a professional medical group (Type 21) that received payment of approximately $5.8 million under the provider numbers examined for over 47,000 mental health and SUD treatment services[2]. Neurobehavioral has locations in Bellaire, Cambridge and Steubenville, Ohio.

Purpose, Scope, and Methodology

The purpose of this examination was to determine whether Neurobehavioral'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 CPST services and mental health nursing and office visits for the same recipient on the same day, along with the exception tests, as specified below for which Neurobehavioral billed with dates of service from January 1, 2019 through December 31, 2020 and received payment.

We obtained Neurobehavioral' s fee-for-service claims data from the Medicaid database of services billed to and paid by Ohio's Medicaid program. We also obtained paid claims data from one Medicaid managed care organization (MCO) and confirmed the services were paid to Neurobehavioral's tax identification number. From the fee-for-service and MCO data, we removed services paid at zero, third-party payments, co-payments and Medicare crossover claims. From the remaining total paid services, we selected the following services:

- All services rendered on the same recipient date of service (RDOS)[3] as a clinically managed low intensity (procedure code H2034) or clinically managed population-specific high intensity SUD residential treatment (H2036) service (Services Billed Separately During Residential Stay Exception Test);
- All instances in which a recipient had more than 30 consecutive days in a calendar year for the first and/or second admission in a high intensity SUD residential treatment program (H2036) and all instances for the recipient's third admission within a calendar year (More than 30 Consecutive Days or Third Stay in SUD Residential Treatment Exception Test);
- All instances in which more than four units per month of ACT (H0040) services were billed for the same recipient (More than Four ACT Units Exception Test);
- All second instances in which more than one psychiatric diagnostic evaluation (90791) was billed for the same recipient in a calendar year (More than One Diagnostic Evaluation Exception Test);
- All instances in which more than one per diem service was billed on the same RDOS (More than One Per Diem on Same RDOS Exception Test);
- A random sample of 60 CPST (H0036) services (CPST Services Sample); and
- A random sample of 60 RDOS with both a mental health nursing (H2019) service and an office visit (99213 and 99214) (Nursing Services and Office Visits Sample).

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[2] Payment data from the Medicaid Information Technology System (MITS).

[3] An RDOS is defined as all services for a given recipient on a specified date of service.

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

Table 1: Exception Tests and Samples			
Universe	**Population Size**	**Sample Size**	**Selected Services**
Exception Tests			
Services Billed Separately During Residential Stay[1]			682
More than 30 Consecutive Days or Third Stay in SUD Residential Treatment (H2036)			424
More than Four ACT Units (H0040)			48
More than One Diagnostic Evaluation (90791)			6
More Than One Per Diem on Same RDOS[2]			24
Samples			
CPST Services (H0036)	2,937	60	60
Nursing Services and Office Visit (H2019, 99213, 99214)	512 RDOS	60 RDOS	120
Total			**1,364**

[1] These services include office visits (99212, 99213 and 99214), CPST (H0036), mental health nursing (H2017 and H2019) and ACT (H0040).
[2] These services included intensive outpatient program level of care group counseling (H0015) and low intensity or high intensity SUD residential treatment (H2034 and H2036) services.

A notification letter was sent to Neurobehavioral setting forth the purpose and scope of the examination. During the entrance conference, Neurobehavioral described its documentation practices and billing process. During fieldwork, we obtained an understanding of the electronic health record system used, reviewed service documentation and verified professional licensure. We sent preliminary results to Neurobehavioral and it subsequently submitted additional documentation which we reviewed for compliance prior to the completion of our fieldwork.

Results

The summary results are shown in **Table 2**. 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.

Table 2: Results				
Universe	**Services Examined**	**Non-compliant Services**	**Non-compliance Errors**	**Improper Payment**
Exception Tests				
Services Billed Separately During Residential Stay	682	43	43	$4,081.60
More than 30 Consecutive Days or Third Stay in SUD Residential Treatment	424	55	55	$11,753.50
More than Four ACT Units	48	12	12	$5,406.98
More than One Diagnostic Evaluation	6	3	3	$374.87
More Than One Per Diem on Same RDOS	24	12	12	$1,897.71
Samples				
CPST Services	60	11	14	$689.99
Nursing Services and Office Visit	120	4	8	$127.68
Total	**1,364**	**140**	**147**	**$24,332.33**

A. Provider Qualifications

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.

We identified 25 practitioners in the service documentation for the selected services and compared their 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 12 licensed practitioners identified in the service documentation for this examination, we verified via the e-License Ohio Professional Licensure System that their licenses were current and valid on the first date found in our selected services and were active during the remainder of the examination period.

The Department requires that providers and practitioners who want to furnish Medicaid covered services to Medicaid recipients enroll as Medicaid providers. This includes both providers and practitioners who will submit claims seeking reimbursement for services furnished to Medicaid recipients and rendering practitioners who are employed by provider groups or organizations who will submit claims to the department for payment. See Ohio Admin. Code § 5160-1-17.

We searched MITS and verified that each rendering licensed practitioner had an active Medicaid provider number on the first date found in our selected services and was active during the remainder of the examination period.

We did not test provider qualifications for the exception test services.

B. Service Documentation

Medicaid reimbursement is contingent upon providers maintaining complete and accurate documentation as specified in rules 5160-01-27 and 5160-8-05 of the Ohio Administrative Code. See Ohio Admin. Code §§ 5160-27-02(H) and 5160-27-03(G). Documentation requirements includes the type, description, date, time of day, and duration of service contact. See Ohio Admin. Code § 5160-8-05(F).

For the sampled services, we obtained service documentation from Neurobehavioral and compared it to the required elements. We compared units billed to documentation duration. For errors where the units billed exceeded documented duration, the improper payment was based on the unsupported units.

CPST Services Sample

The 60 services examined contained six instances in which the units billed exceeded the documented duration and two instances in which there was no service documentation to support the payment. These eight errors are included in the improper payment of $689.99.

Neurobehavioral indicated these instances were due to billing errors.

Additionally, we noted instances in which the progress notes were not signed on or about the date of service. We observed that the notes were signed as many as 50 days after the service date. We did not associate an improper payment with these instances.

B. Service Documentation (Continued)

Nursing Services and Office Visit Sample

The 120 services examined contained four instances in which the documentation did not contain a description of the service rendered and four instances in which the documentation did not contain the time or duration of the service. These eight errors resulted in the improper payment amount of $127.68.

Based on the nursing notes obtained, we noted that Neurobehavioral billed for a separate nursing visit for conducting a medical evaluation (e.g., blood pressure, temperature, height, weight, changes in health condition and questions or concerns for the physician) in conjunction with the recipient's office visit with a nurse practitioner. Our review of the Current Procedures Terminology (CPT) codes noted that the CPT code for an office visit for the evaluation and management of a patient includes a medically appropriate history and/or examination. The practice of billing for this nursing activity as a separate service was referred for further attention to the Department and to the impacted MCO included in this examination.

Recommendation

Neurobehavioral should develop and implement procedures to ensure that all service documentation fully comply with requirements contained in Ohio Medicaid rules. In addition, Neurobehavioral should implement a quality review process to ensure that documentation is complete and accurate prior to submitting claims for reimbursement.

Neurobehavioral should also seek technical assistance from the Department of Mental Health and Addiction Services to ensure it is properly billing mental health nursing services and that the Department monitor Neurobehavioral for compliance. Neurobehavioral should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

C. Authorization to Provide Services

A treatment plan must be completed within five sessions or one month of admission, whichever is longer, must specify mutually agreed treatment goals and track responses to treatment and is expected to bear the signature of the professional who recorded it. *See* Ohio Admin. Code § 5160-8-05(F).

We obtained treatment plans from Neurobehavioral to confirm that the treatment plan authorized the service examined and was signed by the recording practitioner. We limited our testing of treatment plans to the sampled CPST services.

CPST Services Sample

The 60 services examined contained five instances in which there was no treatment plan to cover the service date and one instance in which the treatment plan was not signed by the practitioner that recorded it. These six errors are included in the improper payment of $689.99.

Recommendation

Neurobehavioral should develop and implement controls to ensure that all treatment plans are completed and signed within the required timeframe. Neurobehavioral should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

D. Medicaid Coverage

SUD Residential Treatment Program Services

Per Ohio Admin. Code § 5160-27-09(B), for individuals in residential treatment, medical services will not be reimbursed separately and community psychiatric supportive treatment and assertive community treatment are non-covered services. Individuals in residential treatment may receive medically necessary services from practitioners who are not affiliated with the residential treatment program. This includes medical treatment that is outside the scope of the residential level of care as defined by the American Society of Addiction Medicine. *See* Ohio Admin. Code § 5160-27-09(C).

In addition, Ohio Medicaid allows up to 30 consecutive days without prior authorization per recipient for the first and second residential treatment admission in a calendar year. If the residential stay continues beyond the 30 consecutive days of the first or second stay, prior authorization is required to support the medical necessity of the continued stay. If medical necessity is not substantiated and approved by the Department's designated entity, only the initial thirty consecutive days will be reimbursed. Third and subsequent admissions during the same calendar year must be prior authorized from the first day of admission. *See* Ohio Admin. Code § 5160-27-09(F)(3).

Psychiatric Diagnostic Evaluations

Ohio Admin. Code § 5160-8-05(D)(3) limits psychiatric diagnostic evaluations to one per recipient, per calendar year. This limitation may only be exceeded with prior authorization. We confirmed with the MCO that it imposed these limitations and that the evaluations were billed to the same NPI.

ACT Services

Ohio Admin. Code § 5160-27-04(L) allows for up to four ACT units per month per recipient. The billing of ACT units is subject to the following limits:

- One unit may be billed for services rendered by a physician, clinical nurse specialist, certified nurse practitioner, or physician assistant operating within their respective scopes of practice;
- One unit may be billed for services rendered by a psychologist, licensed independent social worker, licensed social worker, licensed clinical social worker, licensed professional counselor, licensed professional clinical counselor, licensed independent clinical counselor, licensed independent marriage and family therapist, licensed marriage and family therapist, licensed practical nurse, registered nurse, licensed independent chemical dependency counselor, licensed chemical dependency counselor II or licensed chemical dependency counselor III; and
- Two units may be billed for services rendered by a psychology assistant, psychology intern, psychology trainee, social worker assistant, social worker trainee, marriage and family therapist trainee, counselor trainee, chemical dependency counselor assistant, qualified mental health specialist.

Services Billed Separately During Residential Stay Exception Test

The 682 services examined contained 332 office visits, 307 mental health nursing, 40 CPST and three ACT services billed during a recipient's stay in a SUD residential treatment program.

Neurobehavioral indicated that the medical services (nursing and office visits) were outside of the scope of its SUD residential treatment program and not affiliated with SUD treatment. While Neurobehavioral's website indicates it is a co-occurring disorders treatment center that provides comprehensive care, upon further review, it is not a co-occurring treatment program and mental health services are provided separately on an outpatient basis. As such, we did not associate an improper payment with the 639 medical services.

D. Medicaid Coverage (Continued)

The 43 CPST and ACT services billed during the recipient's stay in a SUD treatment program resulted in an improper payment amount of $4,081.60

More than 30 Consecutive Days or Third Stay in SUD Treatment Program Exception Test

The 424 services examined contained 55 instances in which there was no prior authorization to support the medical necessity of the continued stay as required for payment. These 55 errors resulted in an improper payment amount of $11,753.50.

More than Four ACT Units Exception Test

The 48 services consisted of nine recipients in which Neurobehavioral was reimbursed for more than four units of ACT services in a month. We identified 12 payments for these nine recipients in excess of the imposed limitation based on the rendering practitioner and modifier on the claim. These 12 errors resulted in the improper payment amount of $5,406.98.

More than One Diagnostic Evaluation Exception Test

The six payments examined consisted of three recipients with two psychiatric diagnostic evaluations billed in a calendar year. The second psychiatric diagnostic evaluation billed exceeded Medicaid's coverage limitation and no prior authorization was obtained. These three errors resulted in the improper payment amount of $374.87.

More than One Per Diem on the Same RDOS Exception Test

The 24 services consisted of 12 RDOS in which more than one per diem service was billed. For nine of these RDOS, two different residential levels of care were billed. Per Ohio Admin. Code § 5160-27-09(F)(1), residential levels of care are mutually exclusive, therefore a patient can only receive services through one level of care at a time. Two of the RDOS included two intensive outpatient program and one RDOS include two partial hospitalization services. These 12 errors resulted in the improper payment amount of $1,897.71.

Recommendation

Neurobehavioral should ensure that services billed to Medicaid are consistent with the benefits covered by the program. Additionally, Neurobehavioral should also seek technical assistance from the Department to ensure it is properly billing mental health services separately from the SUD residential treatment service and that the Department monitor Neurobehavioral for compliance. Neurobehavioral should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

Official Response

Neurobehavioral indicated that the services in excess of coverage limitations were billed with the assumption that the MCO would deny the service if not allowed; however, it now submit charges after receiving an approved authorization. In addition, Neurobehavioral stated that the errors in ACT billing occurred during the initial period of rendering this service and have been corrected and the multiple psychiatric diagnostic evaluations were based on medical necessity. Lastly, Neurobehavioral indicated it billed for different levels of residential treatment with the assumption that the MCO would take back the higher payment.

We did not examine Neurobehavioral's response and, accordingly, we express no opinion on it.

NEUROBEHAVIORAL MEDICINE CONSULTANTS, P.C. INC.

BELMONT 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 4/6/2023

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