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**GWENDOLYN M. ROBINSON, RN
GUERNSEY COUNTY**

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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO PRIVATE DUTY NURSING AND WAIVER NURSING SERVICES

Gwendolyn M. Robinson, RN
57643 Montour Road
Senecaville, Ohio 43780

RE: *Medicaid Provider Number 2393182*

Dear Ms. Robinson:

We have examined your (the Provider's) compliance with specified Medicaid requirements for provider qualifications, service documentation, and service authorization related to the provision of private duty nursing and waiver nursing services during the period of January 1, 2009 to December 31, 2011. We confirmed the Provider's licensure status during the examination period. We tested service documentation to verify that there was support for the date of service, the procedure code, and the duration of service paid by Ohio Medicaid. In addition, we tested the Provider's service documentation to determine if it contained the required elements. We also examined plans of care and all services plans to determine if the Provider, the service, and the units paid by Ohio Medicaid were appropriately authorized. The accompanying Compliance Examination Report identifies the specific requirements examined for compliance.

Provider's Responsibility

The Provider entered into an agreement with the Ohio Department of Medicaid 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

We noted 140 instances in which neither the recipient nor a legal representative signed the daily service documentation and 140 instances where the Provider did not sign the daily service documentation.

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 pertaining to provider qualifications, service documentation and service authorization 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.

In addition to the material non-compliance described in the Basis for Qualified Opinion paragraph, we identified other non-compliance which resulted in an overpayment. We found the Provider was overpaid by Ohio Medicaid for private duty nursing services between January 1, 2009 and December 31, 2011 in the amount of \$876.36. This finding plus interest in the amount of \$53.69 totaling \$930.05 is due and payable to the Ohio Department of Medicaid (ODM) upon ODM's adoption and 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) ODM is responsible for making a final determination regarding recovery of our findings and any accrued interest.

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 23, 2014

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 Gwendolyn M. Robinson, RN

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 private duty nursing and waiver nursing services to one Ohio Medicaid recipient and received reimbursement of \$309,299.04 for 1,009 private duty nursing services and \$4,954.78 for 16 waiver nursing services rendered on 1,022 recipient dates of service (RDOS). A recipient date of service is defined as all services for a given recipient on a specific date of service. The Provider submitted a written request to place her nursing license on inactive status effective August 31, 2013 and her Provider Agreement ended on November 4, 2013.

Home care nursing services under Ohio Medicaid may include private duty nursing services, waiver nursing services, or both. See Ohio Admin. Code §§ 5160-46-04 and 5160-50-04 When a Medicaid recipient receiving care is on an ODM administered waiver program, an all services plan is required in addition to the plan of care. See Ohio Admin. Code §§ 5160-46-04(A)(4) and 5160-50-04(A)(4) The all services plan lists all Medicaid home health services approved for the recipient, including the type, frequency and duration of each service. The all services plan also specifies which providers can render services and subsequently bill Ohio Medicaid for them. The plan of care is a medical treatment plan that is established, approved and signed by the treating physician. The plan of care must be signed and dated by the treating physician prior to requesting reimbursement for a service. See Ohio Admin. Code § 5160-45-01(E) and (QQ)

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 audit period and may be different from those currently in effect.

The scope of the engagement was limited to an examination of private duty nursing and waiver nursing services with dates of service between January 1, 2009 and December 31, 2011 which the Provider rendered and received payment from the Ohio Medicaid program.

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 unpaid services. We then selected services associated with dates where the total units on those dates equaled or exceeded 24 hours as an exception test. The remaining sub-population was then stratified based on the amount paid into three strata. The final sample size is shown in the following table:

Strata	Population Size	Sample Size	Selection Method
Strata 1 = amount paid was less than \$257	14	14	Census
Strata 2 = amount paid was greater than \$257 and less than \$328	985	270	Stratified Random Sample
Strata 3 = amount paid was greater than \$328	20	20	Census
Total:	1,019	304	

We selected all RDOS in strata one and strata three and a random sample based on RDOS from strata two to facilitate a timely and efficient examination of the Provider's services as permitted by Ohio Admin. Code § 5160-1-27(B)(1). We then obtained the detailed services for all of the selected RDOS and tested these services during fieldwork.

We obtained the all services plans from ODM (CareStar Agency) to determine if the Provider was authorized to render services. We also verified the Provider's qualification and examined clinical notes and plans of care by recipient to determine if the Provider had documentation to support the services rendered.

An engagement letter was sent to the Provider on September 3, 2013, setting forth the purpose and scope of the examination. An entrance conference was held with the Provider on September 24, 2013. During the entrance conference, the Provider described her documentation practices, procedures for obtaining plans of care and all services plans, and process for submitting billing to the Ohio Medicaid program. Our field work was performed following the entrance conference. Upon receipt of the draft report the Provider submitted additional documentation which we reviewed for compliance.

Results

We reviewed six services in which the total units on each date of service equaled or exceeded 24 hours and found three errors resulting in an overpayment of \$876.36. The basis for our findings is discussed below in more detail. We found six additional instances of non-compliance.

We also reviewed 304 services that consisted of private duty nursing services and waiver nursing services in our statistical sample and identified 280 instances of non-compliance. All instances of non-compliance are described below.

A. Provider Qualifications

According to Ohio Admin. Code § 5101:3-12-02(A), private duty nursing requires the skills of and is performed by either an registered nurse (RN) or a licensed practical nurse at the direction of an RN. In addition, according to Ohio Admin. Code § 5101:3-12-03.1(A)(1), a non-agency nurse is required to be an RN or licensed practical nurse at the direction of an RN practicing within the scope of his or her nursing license.

We verified through the Ohio e-License Center that the Provider was an RN licensed by the Ohio Board of Nursing and that the license was in active status during our examination period. The Provider submitted notice to place her license into inactive status effective August 31, 2013.

B. Service Documentation

Per Ohio Admin. Code § 5101:3-12-03.1(C), providers of private duty nursing services who are also providers of waiver services to a waiver recipient must comply with all applicable requirements including those set forth by the waiver rules. Ohio Admin. Code § 5101:3-46-04(A)(6) states all waiver nursing service providers must maintain a clinical record for each consumer serviced. Non-agency waiver nursing service providers must maintain the clinical record at their place of business, and maintain a copy in the consumer's residence. The rule specifically states that the place of business must be a location other than the consumer's residence. Additionally Ohio Admin. Code § 5101:3-46-04(A)(6)(j) states that providers must maintain a clinical record that includes clinical notes, documentation of tasks performed or not performed, arrival and departure times, and dated signatures of the provider and recipient.

We identified 140 instances where the service documentation was not signed by the recipient or a legal representative and 140 instances where the service documentation included the Provider's initials but no dated signature.

The Provider stated that she maintained a skilled nursing assessment form and a data sheet for each service she rendered and that during the examination period she did not consistently provide the recipient with a separate set of service records. In addition, she later moved and no longer had sufficient storage space for her records so she took most of her records to the recipient's home to be stored. The Provider submitted some skilled nursing assessment forms and data sheets for our examination and the recipient's mother provided a written statement that in June of 2013, there was water in her basement which damaged the Provider's documents and the records were destroyed. After our fieldwork the recipient's mother found a box in her basement containing some of the Provider's records that were originally thought to be destroyed. These records were data sheets which included the required elements, except for the required signatures because the signatures were only included on the skilled nursing assessment forms.

Additionally, we selected six services, rendered on three dates of service in which the total units on each date of service equaled or exceeded 24 hours to review as an exception test. We identified three services for which the Provider had no supporting service documentation. These three services are disallowed and the reimbursement is included in the total overpayment of \$876.36. We also identified three instances where the service documentation was not signed by the recipient or a legal representative and three instances where the service documentation included the Provider's initials but no dated signature.

C. Authorization to Provide Services

Plan of Care

According to Ohio Admin. Code § 5101:3-12-02(B)(2), private duty nursing services must be provided and documented in accordance with the recipient's plan of care. In addition, Ohio Admin. Code §§ 5101:3-46-04(A)(4)(g) states that in order to be a provider and submit a claim for reimbursement of waiver nursing services, the RN must be identified as the provider on, and be performing nursing services pursuant to, the recipient's plan of care and the plan of care must be signed and dated by the recipient's treating physician.

We reviewed the plans of care in effect during the examination period. Each plan of care authorized nursing services, listed the scope, frequency and duration, was signed and dated by the treating physician, and listed the Provider as the rendering provider. We found no dates of service not covered by an approved plan of care.

All Services Plan

According to Ohio Admin. Code § 5101:3-46-04(A)(4)(f), the Provider must be identified on the recipient's all services plan and have specified the number of hours for which the provider is authorized to furnish waiver nursing services to the recipient. Additionally, according to Ohio Admin. Code § 5101:3-46-04(A)(3)(f), waiver nursing services do not include services performed in excess of the number of hours approved pursuant to, and as specified on, the consumer's all services plan.

We reviewed the all services plans in effect during the examination period to ensure the Provider was authorized to render services and to verify the Provider did not bill for units of service in excess of the number of hours approved on the all services plan.

We identified 44 services, resulting in 2,072 units, where the Provider billed for more units than were authorized specifically for her. However, we noted that there were units or available funds pending authorization listed on the all services plans for the same service codes as authorized for this Provider and these pending units covered all of the overages identified. The Provider indicated that at the end of each month she faxed her calendar, which included the hours worked and corresponding units, to the case manager and it was her understanding that the all services plan would then be updated to authorize the units she provided. We noted the case manager's name and fax number hand written on each calendar. We also noted that the structural reviews during the examination period did not include non-compliance or findings related to all services plan requirements. Based on the units pending authorization and the results of prior structural reviews, we were unable to determine that the failure to obtain updated all services plans resulted in an overpayment.

Additionally, we identified five services, resulting in 240 units, in which the Provider billed using a procedure code that was not authorized in the all services plan. Both the authorized code and the billed code were reimbursed at the same rate so this did not result in an overpayment.

Provider Response

A draft report along with a detailed list of services for which we took findings was mailed to the Provider on May 1, 2014 and the Provider was afforded an opportunity to respond to this examination report.

We did not receive a response from the Provider to the results noted above.



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GWENDOLYN M. ROBINSON, RN

GUERNSEY 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
JUNE 17, 2014**