



Dave Yost • Auditor of State

JOSEPH V. POOLE
SCIOTO COUNTY

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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO PERSONAL CARE AIDE AND HOMEMAKER SERVICES

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

RE: Joseph V. Poole
Ohio Medicaid # 2451789

We examined Joseph Poole's (the Provider's) compliance with specified Medicaid requirements for provider qualifications, service documentation, and service authorization related to the provision of personal care aide and homemaker/personal care aide services during the period of January 1, 2013 through December 31, 2015.

The Provider entered into an agreement (the Provider Agreement) with the Ohio Department of Medicaid (ODM) to provide services to Medicaid recipients and to adhere to the terms of the agreement, state statutes and rules, federal statutes and rules, including the duty to maintain records supporting claims for reimbursement made by Ohio Medicaid. The Provider is responsible for compliance with the specified requirements. Our responsibility is to express an opinion on the Provider'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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Provider complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether the Provider 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 the Provider's compliance with the specified requirements.

Internal Control Over Compliance

The Provider is responsible for establishing and maintaining effective internal control over compliance with the specified Medicaid requirements referred to above. 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 the Provider did not maintain first aid certification for the period of November 1, 2013 through December 12, 2014. In addition, the Provider's documentation of personal care aide services lacked the required dated signature of the recipient or authorized representative and the Provider's signature on the service documentation was not dated. Also, the Provider was reimbursed for activities that were not authorized on the individual service plan and were not consistent with the definition of personal care aide service.

Basis for Qualified Opinion (Continued)

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.

Qualified Opinion

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 January 1, 2013 through December 31, 2015.

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 identified an improper Medicaid payment in the amount of \$127,901.66. This finding plus interest in the amount of \$11,229.06 totaling \$139,130.72 (calculated as of February 5, 2018) is due and payable to the ODM upon its adoption and adjudication of this report. Services billed to and reimbursed by the ODM, which are not validated in the records, are subject to recoupment through the audit process. See Ohio Admin. Code § 5160-1-27. In addition, if waste and abuse¹ are suspected or apparent, ODM and/or the office of the attorney general will take action to gain compliance and recoup inappropriate or excess payments in accordance with rule 5160-1-27 or 5160-26-06 of the Administrative Code.



Dave Yost
Auditor of State

February 5, 2018

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 EXAMINATION REPORT

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 prevention, diagnosis, evaluation or treatment of an adverse health condition. 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 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. Ohio Admin. Code § 5160-1-17.2(E)

Ohio Medicaid recipients may be eligible to receive personal care aide services that assist the recipient with activities of daily living such as bathing and dressing, general homemaking activities, household chores, personal correspondence, accompanying the consumer to medical appointments or running errands. See Ohio Admin. Code §§ 5123:2-9-56(B)(11) and 5123:2-9-30(B)(11).

This Provider is a personal care aide located in Scioto County who rendered services to one recipient. The recipient was on the Transitions Developmental Disabilities Waiver and then transferred to the Individuals Options Waiver during the examination period. The Provider received reimbursement of \$127,901.66 for 1,886 personal care aide services (procedure code T1019) and \$30,099 for 160 homemaker/personal care aide services² (procedure code MR940) for a total of \$158,000.66 rendered on 1,089 recipient dates of service (RDOS) during the examination period. An RDOS is defined as all services to a given recipient on same date of service.

Purpose, Scope, and Methodology

The purpose of this examination was to determine whether the Provider's 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 an examination of personal care aide and homemaker services the Provider rendered to one Medicaid recipient during the period of January 1, 2013 through December 31, 2015.

We received the Provider's claims history from the Medicaid database of services billed to and paid by Ohio's Medicaid program. From this population, we used a stratified random sampling approach to facilitate a timely and efficient examination of the Provider's services as permitted by Ohio Admin. Code § 5160-1-27(B)(1). Specifically, we stratified the RDOS into two strata based on the procedure codes and then selected a random sample from each strata. The final calculated sample size is shown in **Table 1**.

² Homemaker/personal care aide services (procedure code MR940) are referred to as Homemaker services for the remainder of the report to differentiate these services from personal care aide services (procedure code T1019).

Purpose, Scope, and Methodology (Continued)

Table 1: Statistical Sample – Personal Care Aide Services		
Universe/Strata	Population RDOS	Sample RDOS
Personal care aide services (T1019)	929	220
Homemaker services (MR940)	160	50
Total RDOS:	1,089	270

We then obtained the detailed services for the 270 sampled RDOS. This resulted in a sample size of 449 personal care aide services and 50 homemaker services for a total of 499 services.

A notification letter was sent to the Provider setting forth the purpose and scope of the examination. During the entrance conference the Provider described his documentation practices, procedures for obtaining individual service plans and process for submitting billing to the Medicaid program. During fieldwork, we reviewed personnel records and service documentation.

Results

We examined 449 personal care aid services and found that the Provider's failed to obtain the signature of the recipient or authorized representative for any service. As a result, we identified the full amount of \$127,901.66 paid to the provider for all personal care aid services rendered between January 1, 2013 and July 24, 2015 as an improper payment. On July 25, 2015 the recipient transitioned to an Individual Options Waiver which did not require the signature of the recipient or authorized representative.

In addition, we found that the Provider billed for respite service as personal care aide services and did not maintain first aid certification for a portion of the examination period. While certain services had more than one error, only one finding was made per service. The basis for our findings is described below in more detail.

We examined 50 homemaker services and found no instances of non-compliance.

A. Provider Qualifications

Ohio Admin. Code §§ 5123:2-9-56(C)(3) and 5123:2-2-01(C)(3) (referenced from Ohio Admin. Code § 5123:2-9-30(C)(3)) state that a personal care aide shall hold valid American Red Cross or equivalent certification in first aid.

The Provider submitted a copy of written communication from the Medicaid program that erroneously stated he was not required to obtain first aid. The Provider indicated that he relied on this written communication instead of his own research and knowledge of the Medicaid rules. We confirmed that the Provider was made aware of the first aid requirement during a compliance review on October 31, 2013; however, he did not obtain the required certification until December 13, 2014. We did not identify an improper payment related to the non-compliance between January 1, 2013 and October 31, 2013 but did identify an improper payment for services rendered between November 1, 2013 and December 12, 2014.

A. Provider Qualifications

We reviewed 449 personal care aide services and found 178 services during the period in which the Provider was aware of the first aid requirement but did not obtain the certification. These 178 errors are included in the improper payment amount of \$127,901.66.

We found no errors with the homemaker services.

Recommendation:

The Provider should ensure the required first aid certification is maintained. In addition, the Provider should personally review and comply with the terms of the provider agreement, Revised Code, Administrative Code, and federal statutes and rules that pertain to the personal care aide services. The Provider should address the identified issue to ensure compliance with Medicaid rules and avoid future findings.

B. Service Documentation

Ohio Admin. Code §§ 5123:2-9-56(E)(2)(g) and 5123:2-9-30(E) state that all personal care aide providers must maintain a clinical record that includes documentation of tasks performed or not performed and arrival and departure times. Ohio Admin. Code § 5123:2-9-56(E)(2)(g) further requires the dated signatures of the provider and recipient or authorized representative, verifying service delivery upon completion of service delivery. For homemaker services, Ohio Admin. Code §5123:2-9-30(E) requires only the signature of the provider.

We examined the Provider's documentation for all of the 499 personal care aid and homemaker services to determine if it contained the applicable elements. We also compared the duration documented to the units billed to verify that these agreed.

For all of the 449 personal care aide services, we found that the recipient or authorized representative did not sign the documentation. The recipient's mother signed the documentation although she was not a guardian or authorized representative during the period in which the recipient was on the Transitions Developmental Disabilities Waiver. In addition, according to the all services plan³ and individual services plans, the recipient was able to sign his name. The Provider stated he was not aware that only the recipient or authorized representative could sign documentation. When the recipient transferred to the Individuals Options Waiver, the mother was identified on the individual service plan as the authorized representative. We also found that the Provider did not date his signature for any of the personal care aide services.

In addition, we found one service in which the units billed exceeded the units documented. These 450 errors are included in the improper payment amount of \$127,901.66.

We found no errors in the documentation for homemaker services.

Recommendation:

The Provider should ensure that units billed are accurate and service documentation contains the signature(s) as specified. These issues should be addressed to ensure compliance with Medicaid rules and avoid future findings.

³ The recipient had an all services plan which was reviewed to determine compliance of service documentation and service authorization.

C. Individual Service Plans

Ohio Admin. Code § 5123:2-9-56(D)(1) and 5123-2-9-30(D)(1) state personal care aide services shall be provided pursuant to an individual service plan and the provider shall be identified as the provider on the plan.

We reviewed 449 personal care aide services and found 108 services that included units for respite services. The individual service plan in effect during the period did not authorize respite services. In addition respite services are a separate Medicaid service and are not included in the definition of personal care aide service. These 108 errors are included in the improper payment amount of \$127,901.66.

We found no errors with the homemaker services.

Recommendation:

The Provider should ensure that only authorized services are billed. This issue should be addressed to ensure compliance with Medicaid rules and avoid future findings.

Official Response

The Provider submitted an official response to the results of this examination which is presented in **Appendix I**. Identifying information regarding the Medicaid recipient has been redacted from the response. We did not examine the Provider's response and, accordingly, we express no opinion on it.

Auditor of State Conclusion

This compliance examination is distinct from the structural reviews conducted by the ODM's contractor; however, we did review the results of the Provider's structural reviews as part of our planning for this examination. In his 2004 application to be a Medicaid provider, Mr. Poole signed a statement agreeing to follow the regulations and policies set forth in the Medicaid handbook. We applied the rules in effect at the time of service delivery and identified a final overpayment for those services that did not meet the Medicaid requirements. We confirmed with the ODM that we appropriately applied the Medicaid requirements for personal care aide services.

Joseph V Poole
2076 Maple Benner Rd
Portsmouth, Ohio 45662

RE: Medicaid # 2451789

Dear Mr. Yost:

In response to the examination report, the noncompliance identified are exaggerated to a certain extent holding me totally responsible for the noncompliance. The time span in question, CareStar provided case management and the structural reviews until 01/01/13. The case managers and the people who provided the structural reviews assisted and advised me how to set up my paper work and told me what to put in the daily service records. This was to coincide with the ISP/All Service Plan. From 01/01/13 the County Board of DODD took over the roll of case management and the structural reviews. On July 25th 2015 I went on the I/O waiver.

In the early years I had findings that had to be corrected and I had to submit a plan of correction. For several years after that there were no findings and I was in compliance with Ohio Medicaid, DODD and everyone else concerned. Below I will explain my position with your assessment:

1. First Aid certification: First of all I was not required to have First Aid training during the year of 2013 and prior to. I received notification in the late fall of 2013 First aid training would be required the following year. On March 21, 2014 I completed the "Adult CPR/AED through the America Red Cross. Later that year I had a compliance review with Vickie Smith on 12/04/2014, it was at that time I was informed that First Aid training would be needed as well as the CPR/AED. It seems to me the term First Aid training is used very loosely. At the American Red Cross they have First Aid, CPR, AED Adult and infant, I was not familiar with this.

On 12/13/2014 I took another class that included the First Aid training as well and did a plan of correction.

Also I have documentation that "First Aid" training was not required in 2013. On October 31, 2013 I had a structural review With Jose Baron, review specialist from DODD, and the report said "No Citations".

Attached you will find these documents.

2. The providers documentation of personal care aid services lacked the required dated signature of the recipient or authorized representative and the Provider's signature on the service documentation and was not dated:

In response to this, as far as I knew, Sandra K. Poole had what was required to sign documents. Many times at Doctors offices, CareStar documents and many other documents that required a signature Sandra provided it, no questions asked except, do you want to sign or does he? They would say it doesn't matter. We were never given a reason for more legal documentation for Sandra to have the authority to sign any or all legal documentation for Furthermore I signed, dated and did what ever I was instructed to do by the SSA and the structural review person from CareStar and so on. That's all I had to go by.

I distinctly remember Tamara Price telling me to have "mom' sign here and initial there and so on and so fourth. Nothing was ever said to me about putting a date next to my signature.

3. The provider was reimbursed for activities that were not authorized on the individual service plan and were not consistent with the definition of personal care aid service:

My service delivery document was developed by myself, CareStar, SSA's and structural reviewers and I was always in compliance with structural reviewers, Ohio Medicaid, DODD and everyone else concerned.

In response to your "Qualified Opinion"

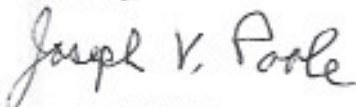
In your findings your solution is not a good and positive resolution. Regardless I've done what I was told and instructed to do. I think I've kept very good records, better than most I've been told. I've kept up to date with my CEU's and tried to comply with the rules, making some mistakes along the way, but always corrected them as instructed to do so.

Perhaps doing as the structural reviewers have done with providers in the past, a better solution would to communicate with the various agencies to enhance what they are doing to avoid discrepancies.

What you have recommended would destroy my families financial security and destabilize life and well being. _____ many seizures daily and this would impact him severely and it is not necessary to do such a thing as you propose. There has been no wrong doing nor intentional neglect. _____ has been well cared for and requires a lot of attention with his condition.

I believe a more constructive resolution would be better to serve the State, the agencies, providers, the families and especially the person with developmental disabilities.

Sincerely,



Joseph V Poole



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JOSEPH POOLE

SCIOTO 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
FEBRUARY 15, 2018