



OHIO AUDITOR OF STATE  
**KEITH FABER**





# OHIO AUDITOR OF STATE KEITH FABER



Medicaid Contract Audit  
88 East Broad Street  
Columbus, Ohio 43215  
(614) 466-3340  
ContactMCA@ohioauditor.gov

## INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO SELECT DURABLE MEDICAL EQUIPMENT

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

RE: Pacetti's Apothecary, Inc.  
Ohio Medicaid Number: 2162314 NPI: 1346352358

We were engaged to examine compliance with specified Medicaid requirements for proof of delivery and service authorization related to the provision of lumbar sacral orthotics and pneumatic compressors for Pacetti's Apothecary, Inc. (Pacetti's) during the period of July 1, 2018 through June 30, 2020.

In addition, we were engaged to test payments for transcutaneous electrical nerve stimulation (TENS) unit purchases and rentals when there was a rental on the same date or after the date of the purchase.

Pacetti's 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. Pacetti's is responsible for its compliance with the specified requirements. The Compliance Section of this report identifies the specific requirements included in the engagement.

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

Pacetti's 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 Pacetti's internal control over compliance.

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

Attestation standards established by the American Institute of Certified Public Accountants require that we request a written statement from Pacetti's confirming, to the best of their knowledge and belief, their representations made to us during the course of our examination. We requested that Pacetti's provide such a statement but Pacetti's refused to do so.

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

Our responsibility is to express an opinion on Pacetti'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 Pacetti's compliance with the specified Medicaid requirements for the period of July 1, 2018 through June 30, 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 Pacetti's compliance with other requirements.

We identified improper Medicaid payments in the amount of \$660,783.89. This finding plus interest in the amount of \$30,097.35 (calculated as of March 29, 2022) totaling \$690,881.24 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.<sup>1</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

March 29, 2022

---

<sup>1</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).

Durable medical equipment (DME) is equipment that can withstand repeated use; is primarily and customarily used to serve a medical purpose; generally is not useful to a person in the absence of an illness or injury; and is appropriate for use in the home. The Ohio Medicaid program covers DME which include lumbar sacral orthotics, pneumatic compressors and TENS units.

Pacetti's is a pharmacy and received payment of \$974,863 from one Ohio Medicaid managed care organization (MCO) under the provider number examined for 2,990 DME supplies. Pacetti's received approximately \$1,953,166 in total Medicaid reimbursement during the examination period.

**Purpose, Scope, and Methodology**

The purpose of this examination was to determine whether Pacetti'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 lumbar sacral orthotics and pneumatic compressors, as specified below and select TENS units for which Pacetti's billed with dates of service from July 1, 2018 through June 30, 2020 and received payment from one Ohio Medicaid MCO. We obtained paid claims data from the one MCO to use for this examination and verified that all services were paid to Pacetti's tax identification number.

We removed claims paid at zero. From this population, we extracted TENS units (E0730) and identified recipients billed with both a TENS purchase (modifier NU) and rental (modifier RR) and further identified those with a TENS rental reimbursed on the same day as a TENS purchase or a rental after the TENS purchase. We obtained all of the rental records associated with these matches which resulted in 67 services. We examined these 12 TENS unit purchases and 55 TENS unit rentals in their entirety (TENS Exception Test).

From the remaining population we extracted lumbar sacral orthotics (procedure code L0639) and selected a simple random sample of 93 services. We then extracted pneumatic compressors (procedure code E0651) and selected a simple random same of 87 services. The exception test and calculated sample sizes 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 Test</b>			
TENS Units Purchases and Rentals (E0730RR and E0730NU)	67		67
<b>Samples</b>			
Lumbar Sacral Orthotics (L0639)	989	93	93
Pneumatic Compressors (E0651)	574	87	87
<b>Total</b>			<b>247</b>

**Purpose, Scope, and Methodology**

A notification letter was sent to Pacetti's setting forth the purpose and scope of the examination. During the entrance conference, Pacetti's described its documentation practices and billing process. In addition, Pacetti's stated it did not provide DME but acted as a biller for other DME suppliers.

During fieldwork, we reviewed proof of delivery, certificates of medical necessity (CMNs) and prescription records. We sent preliminary results to Pacetti's and it subsequently submitted additional documentation which we reviewed for compliance prior to the completion of our fieldwork. Some of this documentation included CMNs that were signed after the examination was initiated and were not accepted as reliable and appropriate evidence as they were prepared after Pacetti's received the preliminary results of this examination.

**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.

<b>Table 2: Results</b>				
<b>Universe</b>	<b>Services Examined</b>	<b>Non-compliant Services</b>	<b>Non-compliance Errors</b>	<b>Improper Payment</b>
<b>Exception Tests</b>				
TENS Units Purchases and Rentals	67	66	118	\$5,877.89
<b>Samples</b>				
Lumbar Sacral Orthotics	93	71	111	\$368,413 <sup>1</sup>
Pneumatic Compressors	87	86	124	\$286,493 <sup>2</sup>
<b>Total</b>	<b>247</b>	<b>223</b>	<b>353</b>	<b>\$660,783.89</b>

<sup>1</sup> The overpayments identified for 71 of the 93 lumbar sacral orthotics from a simple random sample were projected across Pacetti's population<sup>2</sup> of lumbar sacral orthotics resulting in a projected overpayment of \$368,413 with a precision of plus or minus \$44,517 at the 95 percent confidence level. Since the precision percentage achieved was greater than our procedures require for use of a point estimate, the results were re-stated as a single tailed lower limit estimate (equivalent to methods used in Medicare audits) and a finding was made for \$368,413. This allows us to say that we are 95 percent certain that the population overpayment amount is at least \$368,413. A detailed summary of our statistical sample and projection results is presented in **Appendix I**.

<sup>2</sup> The overpayments identified for 86 of the 87 pneumatic compressors from a simple random sample were projected across Pacetti's population of pneumatic compressors resulting in a projected overpayment of \$286,493 with a 95 percent degree of certainty that the true population overpayment amount fell within the range of \$281,391 to \$291,595 (+/- 2.13 percent). A detailed summary of our statistical sample and projection results is presented in **Appendix II**.

**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.

<sup>2</sup> The population used for the projection is services paid by the MCO included in the examination.

**A. Provider Qualifications (Continued)**

We compared the name of Pacetti's owner to the Office of Inspector General exclusion database and the Department's exclusion/suspension list.

We found no matches.

**B. Proof of Delivery**

Per Ohio Admin. Code §5160-10-01(D), the pharmacy provider must maintain documentation that indicates proof that the durable medical equipment was delivered to the intended recipient. In addition, most covered items are purchased and become the property of the recipient. Some covered DME items may be rented on a short-term basis, purchased, or rented and then purchased. Ohio Admin. Code §5160-10-15 specifies that after a TENS unit has been purchased for an individual, the only separate payment that may be made is for necessary supplies.

*TENS Units Purchases and Rentals Exception Test*

We examined 12 TENS unit purchases for proof of delivery and found one instance in which there was no proof of delivery to support the payment. We also examined 55 TENS unit rental payments and found that all were on the same date as a purchase or after the date of purchase.

These 56 errors are included in the improper payment of \$5,877.89.

*Lumbar Sacral Orthotics Sample*

The 93 orthotics examined contained 42 instances (45 percent) in which there was no proof of delivery. These 42 errors are included in the projected improper payment amount of \$338,413.

*Pneumatic Compressors Sample*

The 87 compressors contained 40 instances (46 percent) in which there was no proof of delivery. These 40 errors are included in the projected improper payment amount of \$286,493.

**Recommendation**

Pacetti's should develop and implement procedures to ensure that all proof of delivery documentation is present prior to billing for an item and is maintained for the required timeframe. Pacetti's should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

**C. Authorization to Provide Services**

Per Ohio Admin. Code 5160-10-01(D)(3) lumbar sacral orthotics require a prescription. Per Ohio Admin. Code 5160-10-17 (C) and 5160-10-15(C) pneumatic compressors and TENS units are required to have a completed CMN.

We confirmed that the prescription submitted by Pacetti's supported the services billed and was signed by the physician. In addition, we confirmed that CMNs was complete, supported the services billed and was signed by the physician.

Effective June 12, 2020, the definition of a CMN was Ohio Admin. Code 5160-10-01(B) was amended so that during an emergency Medicaid rule suspension period, the signature of the practitioner is optional.

### **C. Authorization to Provide Services (Continued)**

#### *TENS Units Purchases and Rentals Exception Test*

The 12 TENS unit purchases and 55 TENS unit rental payments contained 42 instances in which there were no CMN to authorize the unit or reimbursement and 20 instances in which the CMN was incomplete. These 62 errors are included in the improper payment of 5,877.89.

#### *Lumbar Sacral Orthotics Sample*

The 93 orthotics contained 69 instances (74 percent) in which there was no valid prescription to authorize the item. These 69 errors are included in the projected improper payment amount of \$368,413.

The 69 errors include six instances in which the physician's signature appeared to be copied and/or duplicated, 22 instances in which the prescription was not dated and one instance in which the prescription was dated after the recipient signed for delivery of the orthotic.

#### *Pneumatic Compressors Sample*

The 87 compressors contained 78 instances (90 percent) in which there were no CMN to authorize the item and six instances in which the CMN was incomplete. These 84 errors are included in the projected improper payment amount of \$286,493.

### **Recommendation**

Pacetti's should develop and implement procedures to ensure that all prescriptions and CMNs fully comply with requirements contained in Ohio Medicaid rules and are maintained for the required timeframe. Pacetti's should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

### **Official Response**

Pacetti's response to the results described above included the following:

- The TENS rental reimbursements were previously recouped by the MCO;
- The lack of CMNs was result of being unaware of this requirement and the MCO should not have paid the claim;
- The lack of prescriptions was due to an oversight and it does not use preprinted or copied prescriptions; and
- The lack of documentation for dispensing items was the result of its business arrangement with a DME company that was to have maintained documents and that this DME company is now "unreachable".

### **Auditor of State Conclusion**

During the examination we contacted the MCO and obtained an explanation of payments which confirmed that Pacetti's did receive TENS rental reimbursements on or after the date of purchase and that these payments had not been recouped by the MCO.

After reviewing the official response, we made no revisions to the results of the compliance examination.



**APPENDIX I**

**Summary of Lumbar Sacral Orthotics (L0639) Sample**

**POPULATION**

The population is all paid Medicaid lumbar sacral orthotics (procedure code L0639), net of any adjustments, where the service was billed with dates of service during the period of July 1, 2018 through June 30, 2020 and payment was made by the MCO.

**SAMPLING FRAME**

The sampling frame for this sample is paid and processed claims from the MCO's claim system. This system contains all Medicaid payments and all adjustments made to Medicaid payments by the MCO.

**SAMPLE UNIT**

The sampling unit was a service.

**SAMPLE DESIGN**

We used a simple random sample.

<b>Description</b>	<b>Results</b>
Number of Services in Population	989
Number of Services Sampled	93
Number of Services Sampled with Errors	71
Total Medicaid Amount Paid for Population	\$531,502.27
Amount Paid for Services Sampled	\$49,981.61
Estimated Overpayment (Point Estimate)	\$405,656
Precision of Overpayment Estimate at 95% Confidence Level	\$44,517 (10.97%)
Precision of Overpayment Estimate at 90% Confidence Level	\$37,243 (9.18%)
Single-tailed Lower Limit Overpayment Estimate at 95% Confidence Level (Calculated by subtracting the 90% overpayment precision from the point estimate) (equivalent to the estimate used for Medicare audits)	\$368,413

Source: Analysis of MCO information and the Provider's records

**APPENDIX II**

**Summary of Pneumatic Compressors (E0651) Sample**

**POPULATION**

The population is all paid Medicaid pneumatic compressors (procedure code E0651), net of any adjustments, where the service was billed with dates of service during the period of July 1, 2018 through June 30, 2020 and payment was made by the MCO.

**SAMPLING FRAME**

The sampling frame for this sample is paid and processed claims from the MCO's claim system. This system contains all Medicaid payments and all adjustments made to Medicaid payments by the MCO.

**SAMPLE UNIT**

The sampling unit was a service.

**SAMPLE DESIGN**

We used a simple random sample.

<b>Description</b>	<b>Results</b>
Number of Services in Population	574
Number of Services Sampled	87
Number of Services Sampled with Errors	86
Total Medicaid Amount Paid for Population	\$289,375.76
Amount Paid for Services Sampled	\$43,928.04
Estimated Overpayment (Point Estimate)	\$286,493
Upper Limit Overpayment Estimate at 95% Confidence Level	\$292,593
Lower Limit Overpayment Estimate at 95% Confidence Level	\$280,393
Precision of Population Overpayment Projection at the 95% Confidence Level	\$6,100 (2.13 %)

Source: Analysis of MCO information and the Provider's records

# OHIO AUDITOR OF STATE KEITH FABER



**PACETTI'S APOTHECARY, INC.**

**WARREN 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 5/10/2022**

88 East Broad Street, Columbus, Ohio 43215  
Phone: 614-466-4514 or 800-282-0370

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