

Gore's Comments and OSC's Response to Draft Audit Report

Gore, through Counsel, submitted comments to the Draft Audit Report. OSC summarizes each comment and provides a response to each below.

Outsourced Human Resources

"Gore Billed for Clinical Level Services Provided by Unlicensed Professionals.

"None of the employees working on the Company's behalf during the Audit period remain at the Company making it extremely difficult to locate and seek assistance from such severed employees. We note that the Company outsourced its Human Resources function to a third-party firm called Zenefits. . . ."

"Through research conducted by the Oberheiden, P.C. ('Firm'), Zenefits did provide a record of the 'on boarding complete' to the Company. This 'on boarding' did include the following items:

1. Professional licenses
2. Criminal background checks
3. Behavioral Assistance training
4. Proof of education
5. Valid driver's license
6. Birthdate

"However, Zenefits told the company that they do not maintain archives or backups of data. Perhaps the OCS would have better fortune at gathering the Human Resources information. See Exhibits A1. Efforts were made to evaluate the Company's backups and archives to some, but limited effect."

OSC's Response

Gore stated that a third-party to whom Gore outsourced its human resources function did not maintain the documentation that Gore needed to refute the audit findings. Gore's effort to assign blame to a third-party for its own failure to maintain legally required documentation is unavailing. As the party that provided services to Medicaid beneficiaries and billed and received Medicaid payments for these services, Gore, not a third-party, is solely responsible for maintaining all documentation needed to support these claims. Accordingly, OSC will not modify these findings.

Burglary

"Furthermore, some documents were stolen during a December 2020 burglary at Company. Please refer to the documentation of the burglary in the prior submission."

OSC's Response

Just as with its effort to deflect blame to a third party vendor, Gore's effort to evade responsibility based on its claim that its records were stolen is also unavailing. Gore is solely responsible for maintaining these legally required records and it cannot escape responsibility by

pointing to a burglary, for which OSC notes Gore failed to provide a police report or a list of stolen records. Therefore, OSC's position remains unchanged.

Medicare Error Rate

"Human error will occur in healthcare. Out of 818 claims audited, there were only 10 errors translating to a greater than 98.5% error free claims. The standard **allowed** error rate for Medicare is 95%."

OSC's Response

Gore's effort to evade responsibility by claiming that OSC only found "10 errors" is false and its comparison to the Medicare error rate is without merit because that rate does not apply to this Medicaid audit. OSC determined that 30 of Gore's 32 sampled service days, or 280 of the 818 claims (34 percent), failed to comply with state regulations. Gore's 280 failed claims contained 432 total exceptions, as some claims failed for multiple reasons. In addition to using a baseline error rate that was far lower than OSC found, Gore pointed to a Medicare error rate that is not applicable to this Medicaid audit.

Compliance

"To ensure that the Company [Gore] reaches and maintains compliance with the New Jersey Medicaid Program, Dr. Gore will take steps to install and operate a Corporate Compliance Program under the Affordable Care Act Section 6401 and the United States Sentencing Guidelines 8B2.1. The Seven Elements of an effective compliance program include Standards and Procedures; Governance and Oversight; Education and Training; Monitoring and Auditing; Reporting; Internal Enforcement and Discipline; and Response and Prevention."

OSC's Response

Through its response, Gore did not provide OSC with a CAP but submitted a vague compliance statement indicating that Gore will take steps to install and operate the Corporate Compliance Program. Additionally, Gore does not mention whether it intends to repay the overpayment to the Medicaid program.

Gore must provide OSC with the corrective actions it will take to address the audit findings and recommendations and Gore must repay the overpayment amount.