

### **Greater New Jersey's Comments and OSC's Responses**

In response to the Draft Audit Report (DAR) issued by the Office of the State Comptroller, Medicaid Fraud Division (OSC), Greater New Jersey Creative Counseling, Inc. (Greater New Jersey), through counsel, submitted a response that takes issue with OSC's audit findings. In general, Greater New Jersey disagreed with OSC's findings; however, OSC stands by its conclusions based on the documentation and information it obtained during the audit.

Greater New Jersey also provided OSC with a Corrective Action Plan (CAP) indicating the steps Greater New Jersey will take or have taken to correct the deficiencies identified in the report, but did not address whether Greater New Jersey would repay the identified overpayment.

Set forth below are Greater New Jersey's specific objections to the audit findings and OSC's responses to each. After reviewing Greater New Jersey's submission, OSC determined that there was no basis to revise any of its audit results. Greater New Jersey's full response is attached to the Final Audit Report (FAR) as Appendix D.

#### **1. Greater New Jersey's introduction and CAP**

##### **Greater New Jersey's Comments**

We have reviewed the New Jersey Office of the State Comptroller's ("OSC") Draft Audit Report detailing the results of an audit of Medicaid claims submitted by and paid to GNJCC for the period from August 1, 2017 through April 30, 2022.

As an initial matter, we submit the following additional background information regarding improvements in GNJCC's compliance policies. GNJCC is an Intensive In-Community provider, offering counseling services to children and youth in their homes. GNJCC has always strived for excellence, and in keeping with that commitment, has implemented additional compliance-driven policies over the past two-and-a-half years. In September of 2022, GNJCC implemented a formal written corporate compliance plan. The plan focuses on ensuring adherence to all pertinent Medicaid regulations, training staff, improving billing policies, and eliminating any risk of fraud, waste and abuse. More specifically, and pursuant to the compliance plan, GNJCC has improved its compliance by implementing the following improvements:

- Hiring a clinically licensed Compliance Director with years of experience with compliance-related issues, who conducts monthly audits of internal GNJCC paperwork and documents to ensure things are filed and completed correctly;
- Creating an electronic filing and backup system so that files and documents are easier to retrieve, reducing filing/retrieval errors;

- Requiring that a second employee audit and confirm dates, units, and/or level of service for all sessions billed before submission to Medicaid;
- Implementing a monthly internal audit to ensure that GNJCC has proper documentation for all sessions billed to Medicaid resulting in a zero error rate for the months September 2024 through January 2025;
- Revamping the driver's license policy to reflect the changes that Medicaid has implemented effective January 1, 2024 by requiring staff to submit updated drivers licenses, internally maintaining electronic backup of all staff licenses, and, for those staff members who do not have a driver's license, requiring them to sign an attestation indicating that they will not drive or transport children, youth, young adults, or their family or caregiver;
- Revamping the background check policy to reflect the changes that Medicaid has implemented effective March 1, 2025 requiring all staff to submit a request for State Bureau of Identification fingerprint-based background checks to CSOC, and internally requiring electronic backup of all staff background checks;
- In addition to hiring a Compliance Director, hiring an additional compliance officer to double-check all staff files to ensure that all required documentation is included and to audit the billings to make sure the correct dates and times are being billed and that all required documentation is included, including by making a quality call check to the claim recipient's parent or guardian prior to submitting the first billing; and
- Conducting an updated, annual compliance training with all staff to assist staff in understanding Medicaid regulations and rules, to help ensure proper and accurate documentation, to reinforce staff's understanding of GNJCC employee compliance expectations, and to educate staff about what constitutes fraud.<sup>1</sup>

Moreover, GNJCC has changed the way it submits billing and other documentation, requiring that they be double checked to ensure correct dates and other information prior to filing. GNJCC's paper filing system at times made it difficult to retrieve previously filed paper records. As a result, in July 2024, GNJCC implemented back-up electronic filing systems to ensure all records are appropriately filed and easy to retrieve. Against this additional background, we now turn to the specific deficiencies stated in the DAR. As stated initially in our August 20, 2024 response letter (the "August 2024 Letter") to OSC's Summary of Findings ("SOF") dated July 31, 2024, and as set forth more fully below, we submit that most of the claimed deficiencies in the DAR are erroneous. Each individual finding from the DAR will be addressed in turn.

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<sup>1</sup> GNJCC's most recent compliance training in October 2024 featured 100 percent staff participation, with attested certificates of attendance placed in all employee files.

## OSC's Response

In its response, Greater New Jersey addressed most of OSC's recommendations from the DAR; however, the CAP did not address the recommendation to reimburse the Medicaid overpayment of \$2,711,289.

### 2. Greater New Jersey's Objections to Extrapolation and Audit Findings

#### a. Greater New Jersey's Objection: Extrapolation of Alleged Overpayment Amounts

##### Greater New Jersey's Comments

GNJCC objects to the sampling method and proposed extrapolation stated in the DAR. The DAR states that OSC reviewed 188 claims from the total population of 107,365 claims between August 1, 2017 and April 30, 2022 and identified overpayments on 44 of these claims totaling \$5,567. The DAR further states that OSC then extrapolated this overpayment to the total population of claims to arrive at an extrapolated overpayment totaling at least \$2,709,266.

In its August 2024 Letter, GNJCC previously objected to a similar extrapolation methodology stated in the SOF. In particular, GNJCC objected that the SOF failed to adequately describe the sampling methodology and that the extrapolated amount was based upon erroneous overpayment amounts. Here, the DAR's extrapolation methodology suffers these same infirmities and entirely fails to address GNJCC's objections.

First, the DAR, like the SOF, does not explain the process used to determine the appropriate sample size, how the sample claims were selected, nor the steps taken to ensure that the sample was representative of the population as a whole. Without an explanation of those steps, it is impossible to determine the validity of the sample and whether it is appropriate for extrapolation. According to the DAR, the audit period covered a massive population of claims, totaling 107,365 individual claims, yet the audit sample was a miniscule 0.1751% (188 claims) of the population. Even in perfect circumstances, extrapolation based on these figures would be inappropriate<sup>2</sup>.

Second, the DAR does not account for GNJCC's identification of claims which were erroneously flagged as deficient. Where there are erroneous claims included in the overpayment amounts, the extrapolation is unfounded. Indeed, as set forth below, many of the claims included in the DAR were erroneously flagged and do not represent any errors or

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<sup>2</sup> For large populations (populations over 10,000) the sample size should be a minimum of 10% of the population, "to ensure representativeness of the sample." See Sample Size – Institutional Effectiveness and Assessment, <https://wp.stolaf.edu/iea/sample-size/>, last accessed March 25, 2025.

violations of any regulation by GNJCC. At a minimum, the OSC must revise the extrapolation to reflect the proper number of claims and to exclude those claims which were erroneously identified.

Third, even with respect to the remaining claims, the extrapolation is unnecessarily punitive given the nature of the findings. Excluding the claims which were improperly identified, the remaining flagged claims in the DAR do not present a uniform trend of errors, but rather isolated and disparate instances of filing and other human error. As detailed above, both prior to and following the audit, GNJCC implemented more robust compliance programs and procedures, including, among other things, onboarding a Director of Compliance and establishing a protocol to maintain back-up files in an electronic format. Accordingly, all the claims here result from isolated instances of human error or lost paperwork and cannot form the basis for any extrapolated repayment amount.

### **OSC's Response**

OSC provided Greater New Jersey an excel file titled, GNJCC Full RS&E – Provider Copy, in July 2024. OSC provided a second excel file titled, GNJCC Full RS&E 1.8.25 – Provider Copy, in March 2025. Greater New Jersey received both of these files on the same dates that they were provided. The first tab, in each file, is the Sampling Plan, which outlines exactly how OSC defined the universe, the sampling method it used, the strata boundaries (in this case the distinction between the simple random sample and the take-all (TA) stratum), how OSC sorted the universe (in order to replicate the random selection process), how OSC determined the sample size (for both the Probe and Full Samples), and the seed number (to re-produce the random numbers that were generated in RAT-STATS). The Sampling Plan, in conjunction with the Universe tab that was provided, allows any qualified individual (i.e., a statistician or someone with significant sampling and extrapolation experience) to completely replicate OSC's sample from start to finish. This replication of the sample would answer all questions Greater New Jersey claims were left unanswered in its first challenge.

The second part of Greater New Jersey's first challenge is that the sample size was too small relative to the size of the universe. Sample size is determined by many different factors, both from statistical and business standpoints. The factors determining sample size from a statistics perspective are: desired confidence level; desired precision level; variance (or standard deviation) of the variable being estimated; mean (i.e., average) of the variable being estimated; and the universe size.

First, OSC will demonstrate how the sample size for the Full Sample was determined. Then, OSC will demonstrate why the size of the universe does not have a major impact in determining the size of the sample (except when the universe is very small).

From the probe sample of 52 claims, OSC was able to obtain estimates of the Error Mean and Error Standard Deviation, \$55.30 and \$86.01, respectively. The Universe is comprised of

107,354 claims. Entering this information into RAT-STATS (v1.9.0.0), “Stratified Variable Sample Size” package, sample sizes are calculated at varying levels of confidence and precision. OSC chose the 80% confidence, 15% precision level, which suggested 177 claims needed to be reviewed in Stratum 1 (S1).

To demonstrate how the size of the universe has a minimal impact on sample size calculations, OSC kept the Error Mean, Error Standard Deviation, Confidence Level, and Precision Level constant. The only variable that was changed, for each calculation, was the size of the universe. See the results below.

**Constants in each test:**

Error Mean	Error Standard Deviation	Confidence Level (Two-Sided)	Precision Level
\$55.30	\$86.01	80%	15%

**Results:**

Universe Size	RAT-STATS Sample Size	Sampling Percentage	Universe Size	RAT-STATS Sample Size	Sampling Percentage
250	104	41.60%	25,000	176	0.70%
500	131	26.20%	50,000	176	0.35%
1,000	151	15.10%	54,000	177	0.33%
1,500	158	10.53%	<b>107,354*</b>	<b>177*</b>	<b>0.16%*</b>
2,000	163	8.15%	150,000	177	0.12%
5,000	171	3.42%	200,000	177	0.09%
10,000	174	1.74%	500,000	177	0.04%
15,000	175	1.17%	1,000,000	177	0.02%
<b>*Actual Universe Size, Full Sample Size, and Sampling Percentage for this audit.</b>					

From the results, OSC observes that there is minimal change to the sample size once the sampling percentage drops below 10% (i.e., the Universe Size is greater than 2,000 claims). At 54,000 claims, the sample size stops increasing entirely. The fact that the Universe can differ by 950,000 claims (or more), and have the same sample size recommendation, proves that the size of the Universe is not the most important value in determining sample size. Therefore, any challenge from Greater New Jersey that the sample size is not sufficient for extrapolation because the Universe is large is misguided.

With that being said, increasing the sample size does have its merits. For instance, by increasing the sample size, the precision would improve, which would result in an increase in the lower limit. As such, if OSC used a larger sample size and had the same findings, Greater New Jersey would need to repay OSC an even larger amount than it currently does.

In Greater New Jersey’s second challenge, it states that OSC included claims that were “erroneously flagged as deficient.” This challenge is unfounded. OSC considers all

documentation submitted by the provider, and no new information was submitted that warranted a change of findings. As a result, the extrapolation did not need to be modified.

The third and final challenge made by Greater New Jersey was that the “extrapolation was unnecessarily punitive given the nature of the findings” and that the claims “do not present a uniform trend of errors.” On both accounts, these statements are incorrect. The extrapolation is designed to only account for the errors identified, which means that by the very nature of its calculations, it cannot be overly punitive. In other words, each finding (or error) directly contributes to the overpayment amount whereas claims that were passed (i.e., not in error) have no contribution to the overpayment amount. Additionally, OSC utilizes the lower limit of a one-sided 90% confidence interval as its overpayment amount. This ensures the recovery amount is conservative, in the provider’s favor, because there is a 90% chance that OSC is recovering less than the actual overpayment amount that exists in the universe. Finally, OSC is not projecting individual types of errors. It assesses each claim independently, and then projects all error dollars collectively back to the universe. Therefore, the type of error has no bearing on the overall calculation. Additionally, the overall frequency of errors (i.e., 39 of 177 in S1, 5 of 11 in TA) is what establishes a trend of errors for extrapolation, not the frequency of individual types of errors (e.g., 3 claims that were upcoded or 1 claim with Missing/Insufficient Progress Notes). Even if the frequency or trend of errors was lower than it currently is, the extrapolation would account for it with a larger precision amount, which would result in a lower overpayment demand.

#### **b. Greater New Jersey’s Objection: Failure to Maintain Criminal Background Checks for Behavioral Assistants Prior to Rendering Services**

##### **Greater New Jersey’s Comments**

The DAR states that GNJCC failed to maintain required proof of background checks for 5 of the 29 Behavioral Assistants (“BAs”) that OSC sampled, resulting in an overpayment on 11 of the claims sampled. However, as GNJCC stated in its August 2024 Letter, all of GNJCC’s BAs (including the five identified in the DAR) have completed background checks, in keeping with the applicable state regulations.

The DAR wholly ignores the evidence GNJCC submitted to establish that the five BAs flagged in the DAR have all had background checks conducted. GNCJJ submitted documentation from [REDACTED], the company that conducted the background checks on behalf of GNJCC, establishing that the five BAs at issue completed background checks on the following dates:

- [REDACTED] – September 1, 2021
- [REDACTED] – June 16, 2021
- [REDACTED] – September 21, 2021
- [REDACTED] – September 25, 2019
- [REDACTED] – January 3, 2018

The DAR contends that the [REDACTED] documentation is insufficient because it establishes only that GNJCC ordered the background checks for these BAs, but not that they had passed the checks. However, this response ignores that OSC itself has conceded that the background check regulation at issue is ambiguous as to what documentation providers must maintain to ensure compliance. In connection with the August 2024 Letter, GNJCC submitted a letter from OSC dated November 16, 2021 stating that “[t]he criminal background check requirements for BAs are not clear and thus difficult to apply.” See Exhibit 1. The OSC’s letter further recommends that the background check requirements be revamped to alleviate confusion regarding how to comply—a recommendation which the State has since adopted effective March 1, 2025 in a comprehensive overhaul of the background check system. The OSC’s letter and the subsequent overhaul establish that the prior system was unworkably vague and difficult to apply; thus, GNJCC was under no clear requirement to maintain the actual completed checks on the state system.

Accordingly, the DAR erroneously identified 5 BAs and the 11 claims they accounted for as deficient, and thus none represent any overpayment amount. GNJCC should face no repayment obligation with respect to any alleged violation of this regulation.

### **OSC’s Response**

OSC found that Greater New Jersey did not maintain background checks for 5 of the 29 Behavioral Assistants (BAs) sampled, who accounted for 11 out of 188 claims, totaling \$2,014 in reimbursement. In its response, Greater New Jersey asserted that background checks had been completed for the five BAs; however, OSC noted that the documentation provided by Greater New Jersey only showed that Greater New Jersey ordered and paid for background checks, not that it received, reviewed and acted on such checks. In short, Greater New Jersey failed to maintain documentation confirming that these BA’s cleared background checks and were eligible to work with Medicaid beneficiaries.

Further, Greater New Jersey claimed that the regulation regarding background checks is unclear and cited a past communication from OSC to DMAHS requesting regulatory improvements. Although Greater New Jersey attributed its noncompliance to perceived ambiguity in the regulation, such ambiguity does not exempt providers of their responsibility to comply with its core requirements. The obligation to ensure that background checks are maintained and that BA’s have cleared them remains unchanged; there is no ambiguity on this core requirement. As such, Greater New Jersey has provided no basis for OSC to modify its audit finding.

**c. Greater New Jersey's Objection: Failure to Maintain a Current and Valid Driver's License for Servicing Providers**

**Greater New Jersey's Comments**

The DAR states that GNJCC failed to maintain a copy of a current and valid driver's license for 14 of the 97 servicing providers that OSC sampled, resulting in an overpayment on 17 of the claims sampled. However, as the DAR concedes, the applicable regulation only applies to servicing providers "whose job functions include operating a vehicle used to transport children, youth or young adults or their family or caregiver." See DAR at 4 (emphasis added); (citing N.J.A.C. 10:77-4.9(f), 4.14(d)(1), 5.9(f), and 5.14(d)(1)). The DAR completely ignores that GNJCC has never required any of its servicing providers to drive clients, and no GNJCC employee's job function can be said to include such activity.

Furthermore, the DAR likewise ignores that this regulation, like the regulation surrounding background checks, has been met with uniform confusion. Per the attached Medicaid Newsletter, it is unclear whether the requirement must be satisfied prior to a provider providing services and whether the provider must update the checks on an annual basis. See Exhibit 1, at 2. Here, GNJCC maintained valid driver's licenses upon hiring, but did not regularly update its records when licenses expired. No regulation required this for employees who did not drive or transport children.

Accordingly, the DAR erroneously identified 14 servicing providers and the 17 claims they accounted for as deficient, and thus none represent any overpayment amount. GNJCC should face no repayment obligation with respect to this regulation.

**OSC's Response**

OSC found that for 14 of 97 servicing providers in the audit sample, which accounted for 17 of 188 claims, totaling \$2,833 in reimbursement, Greater New Jersey failed to maintain a copy of the servicing provider's current and valid driver's license. In its response, Greater New Jersey asserted that it "has never required any of its servicing providers to drive clients, and no [Greater New Jersey] employee's job function can be said to include such activity [transporting beneficiaries]." However, this assertion is not supported by Greater New Jersey's documentation. Greater New Jersey's own progress notes in the CYBER system showed that at least 38 servicing providers documented transporting beneficiaries in vehicles. Of these 38 service providers, four were included in the audit sample. While three of the four documented driving beneficiaries on dates outside the sampled dates of service, one servicing provider documented transporting a beneficiary during the actual date of service included in the audit sample. Among the four servicing providers who documented having transported beneficiaries in vehicles, the progress notes explicitly referenced driving beneficiaries to various locations, such as McDonald's, gyms, nail salons, libraries, and even to beneficiaries' workplaces, on various service dates. Accordingly, contrary to Greater New Jersey's assertion, its employees



did transport beneficiaries as part of their delivery of service. Consequently, Greater New Jersey should have maintained these servicing providers current and valid driver's licenses.

Moreover, while the regulations refer to servicing providers "whose job functions include operating a vehicle used to transport" Medicaid beneficiaries, job function must be understood based on actual duties performed. When servicing providers are actively transporting beneficiaries, whether frequently or occasionally, transportation becomes part of their practical job function, thereby triggering the requirement for the provider, Greater New Jersey, to verify and maintain a valid driver's license on file.

Further, Greater New Jersey claimed that the regulation regarding driver's license is unclear and cited a past communication from OSC to DMAHS requesting regulatory improvements. As previously stated, although OSC continually works to improve Medicaid regulations and guidance, such efforts should not be misconstrued as justification or as an excuse for noncompliance. And the driver's license requirement is not ambiguous. As such, Greater New Jersey has provided no basis for OSC to modify its audit finding.

#### **d. Greater New Jersey's Objection: Failure to Maintain Behavioral Assistance Training Certifications for BAs**

##### **Greater New Jersey's Comments**

The DAR states that 4 of the 29 BAs that OSC sampled were out of compliance with this requirement, resulting in an overpayment on 7 of the claims sampled. Here, as in the August 2024 Letter, GNJCC concedes that 2 BAs—[REDACTED] and [REDACTED]—were out of compliance with the certification requirements, resulting in an overpayment on 5 of the claims sampled. However, with respect to the remaining 2 BAs identified in the DAR—[REDACTED] and [REDACTED]—GNJCC disputes the DAR findings.

First, with respect to BA [REDACTED], GNJCC submitted documentation sufficient to show that [REDACTED] was within the six-month grace period during which to obtain the certification on the date of the claim at issue<sup>3</sup>. [REDACTED] first approached GNJCC about returning to work as a BA for GNJCC on October 9, 2019. See Exhibit 2. Thus, the earliest possible date by which [REDACTED] six-month grace period would expire was April 9, 2020. The claim at issue corresponds to a service date of February 8, 2020, well within the earliest possible grace period.

Second, [REDACTED] is not a BA, but a fully licensed therapist. Per the applicable regulations, she maintains an appropriate LAC license, which became active on June 26, 2020. Thus, the

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<sup>3</sup> See DAR at 5 ("BAs are required to obtain the certification within six months of the BA's hire date . . .").

DAR erroneously identified [REDACTED] as being out of compliance with this requirement for BAs.

Accordingly, the DAR improperly identifies 2 of the 7 claims as non-compliant and which therefore should not be included in the overpayment calculation. For the remaining 5 claims, it is GNJCC's practice to maintain records for each BA's certification, but in these instances GNJCC was unable to locate them due to filing errors. Thus, only 5 claims included an actual instance of overpayment, as detailed below:

Behavioral Assistant Name	Claimant Recipient Name	Claim Service Date	Overpayment Amount
[REDACTED]	[REDACTED]	6/17/2020	\$78.00
[REDACTED]	[REDACTED]	10/15/2020	\$39.00
[REDACTED]	[REDACTED]	10/17/2020	\$78.00
[REDACTED]	[REDACTED]	10/18/2020	\$117.00
[REDACTED]	[REDACTED]	6/27/2021	\$218.28
		<b>Total</b>	<b>\$530.28</b>

### OSC's Response

OSC found that Greater New Jersey allowed 4 of the 29 BAs in the audit sample selection to provide behavioral assistance services to beneficiaries without obtaining the required certification and improperly billed for 7 of 188 claims, totaling \$653 in reimbursement. In its response, Greater New Jersey conceded that 2 of the 4 BA's representing 5 of the 7 claims were non-compliant. However, Greater New Jersey disputed the findings for the remaining two BA's.

For one of the disputed BAs, Greater New Jersey asserted that the BA was within the six-month grace period, citing emails that allegedly show the BA was hired on October 9, 2019. According to Greater New Jersey, this would permit the BA to provide services on the February 8, 2020 date of service without yet obtaining a BA Training Certificate. OSC reviewed the submitted documentation and rejects Greater New Jersey's claim that October 9, 2019, was the actual hire date. Although Greater New Jersey provided emails from August and October 2019, none of these emails established a definitive hire or start date. Moreover, the only employment contract and some onboarding materials provided by Greater New Jersey were signed on April 3, 2017, nearly three years before the February 8, 2020 date of service. Greater New Jersey also provided additional onboarding documentation for this employee such as, the "BA/IIC Do's and Don'ts," "W4," "Earned Sick Leave Fact Sheet," and "Behavior Assistant Job Description," which were all signed on February 27, 2021, more than a year after the service date. Additionally, an "Employee Acknowledgement and Attestation" was later signed on March 17, 2023, over three years after the service date. In sum for this BA, the documents provided by Greater New Jersey span a wide timeframe and fail to establish a clear or

verifiable start date. As such, Greater New Jersey has not provided sufficient and reliable documentation for OSC to modify its audit finding.

For the second BA, Greater New Jersey asserted that the individual was a "fully licensed therapist," with the license becoming effective on June 26, 2020. However, the service date at issue is June 12, 2020, two weeks before the license became active. At the time of service, the individual had not yet obtained professional licensure and, consequently, was functioning as a BA. As such, the individual was required to meet all applicable BA training and certification requirements. Since Greater New Jersey failed to meet the requirements for this individual, OSC will not modify its audit findings.

**e. Greater New Jersey's Objection: Billing for Unsubstantiated Services and/or Maintaining Inaccurate and Incomplete Records**

**Greater New Jersey's Comments**

The DAR states that GNJCC failed to possess adequate documentation to support 14 of the 188 claims sampled, resulting in an overpayment on each of these 14 claims. Consistent with its August 2024 Letter, GNJCC again concedes that 12 of the SDED forms identified in the audit were filled out incorrectly or were not provided. These 12 deficiencies appear to be the result of human error causing paperwork to be misfiled in an incorrect location. GNJCC never bills for any services without proper documentation; instead, GNJCC's process is to enter sessions into its billing spreadsheet only after reviewing the appropriate forms, and with a second set of eyes (formerly a biller, and now, a compliance employee) reviewing the entries for accuracy. Here, then, the proper documentation for these claims exists and was available at the time of billing, but GNJCC now cannot retrieve them due as a result of human filing errors in its previous system. In recognition of these shortcomings, and as explained above, GNJCC has taken steps to improve its audit protocols and to avoid and minimize human error.

With respect to the remaining 2 claims identified in the DAR, for which the service delivery date on page two differs from the prior authorization date on page one of the SDED form, GNJCC notes that the DAR ignores GNJCC's position that its clinician providers wrote the previous authorization number on page one of the encounter form, but that GNJCC always billed under the correct authorization number as a matter of practice. It is common for up-to-date authorization numbers to be unavailable at the time of the encounter, but to become available by the time GNJCC submits the claim. Indeed, the Medicaid billing system does not even allow GNJCC to enter a bill with an expired authorization number. Thus, these discrepancies on the SDED form are not material to payment, and GNJCC should not be penalized for its staff using an expired number on an SDED form where no active authorization number is yet available, particularly since the claims were actually billed with the correct authorization numbers.

Accordingly, of the 14 claims identified in the DAR, only 12 were properly identified as erroneous and resulting in overpayments, as summarized below:

Claim Recipient	Claim Service Date	Overpayment
	10/26/2017	\$170.00
	3/29/2018	\$170.00
	8/17/2017	\$536.75
	4/2/2022	\$218.28
	10/18/2017	\$282.50
	10/11/2018	\$39.00
	12/5/2018	\$(42.50)
	6/23/2020	\$212.50
	3/8/2022	\$287.40
	11/30/2021	\$308.30
	2/13/2018	\$113.00
	10/1/2021	\$114.96
		\$2,410.19

#### OSC's Response

OSC found that Greater New Jersey failed to possess adequate documentation to support 14 of 188 claims sampled, totaling \$2,866 in reimbursement. Greater New Jersey acknowledged that 12 Service Delivery Encounter Documentation (SDED) forms were either completed incorrectly or could not be located, resulting in improper billing.

Greater New Jersey disputed the remaining two claims, asserting that although the prior authorization number listed on the first page of the SDED form was outdated, the claims were billed under the correct authorization number. Greater New Jersey asserted that these discrepancies were immaterial. That is not correct. The prior authorization information on the first page of the SDED must align with the service delivery dates on the second page for the SDED to fulfill its intended purpose. This alignment ensures that the provider attesting to the form's accuracy delivered services within the approved authorization period. In both disputed cases, internal discrepancies prevented OSC from verifying that the services were rendered as authorized. Furthermore, OSC's review of the authorization report confirms that the correct prior authorization was approved and available at the time of service, leaving no reason for Greater New Jersey servicing providers to document incorrect authorization information. As such, OSC will not modify its audit findings.

#### **f. Greater New Jersey's Objection: Upcoding Services**

##### **Greater New Jersey's Comments**

The DAR states that for 3 of the 188 claims sampled GNJCC billed for services using a higher reimbursed procedure code and/or modifier than appropriate, resulting in overpayments. As in the August 2024 Letter, GNJCC concedes that of these 3 claims, two were the result of a mistakes and are legitimate instances of inaccurately coded services. Specifically, for BA [REDACTED], the biller made a mistake and billed [REDACTED] as a therapist rather than a BA.

Further, with respect to the claim involving [REDACTED], GNJCC concedes that [REDACTED] LAC license did not become active until June 26, 2020 and thus was not licensed as an LAC on the date of service of June 12, 2020. However, [REDACTED] had completed a master's degree, and thus GNJCC understood her to be a licensed LAC on the date of service.

With respect to the other remaining claim, involving services rendered by [REDACTED], GNJCC accurately billed for her services. [REDACTED] is independently licensed and has "U1" authorization. Accordingly, GNJCC appropriately billed her services using the "U1" code and the Medicaid billing system processed the claim, despite the authorization code in the system being a "U2." Historically, the billing system has included checks and balances to reject claims using a "U1" authorization where the system code noted "U2" authorization. Unbeknownst to GNJCC, however, there was a change in the Medicaid system removing those checks and balances, allowing this particular claim submission to go through. Per the ordinary process, GNJCC expected the system to reject the billing submission if there was a discrepancy between the code billed and the code authorized, yet this did not occur in this instance. Further, GNJCC did not "upcode" [REDACTED] services, but rather billed them accurately using the code "U1" reflective of her independent licensure status. The code billed thus accurately reflects the services rendered, and any error was on the part of Medicaid in accepting this claim, which was billed accurately.

Accordingly, only two of the claims identified in the DAR were properly identified as upcoded and was the result of an inadvertent human error. The overpayment associated with these two claims amount to a total of \$507.75.

##### **OSC's Response**

OSC found that for 3 of 188 claims, totaling \$495 in reimbursement, Greater New Jersey billed for services using a higher reimbursed procedure code and/or modifier than appropriate, which resulted in Greater New Jersey receiving overpayments. Greater New Jersey conceded that two of the three claims were submitted in error, which inadvertently led to higher overpayments.

For the third claim, Greater New Jersey contended that it did not upcode but appropriately billed using the “U1” modifier to reflect the clinician’s independent licensure. OSC rejects this justification. As set forth in N.J.A.C. 10:77-5.11(h) “[i]ntensive in-community services that are within the scope of a direct care staff person shall not be reimbursed at an increased rate, if delivered by a clinical staff person.” In other words, although independently licensed professionals may deliver these services, they must still be billed at the lower rate applicable to the service level rendered. Additionally, Greater New Jersey contended that “[h]istorically, the billing system has included checks and balances to reject claims using a “U1” authorization where the system code noted “U2” authorization.” In other words, Medicaid’s billing system previously included checks to reject mismatched authorized claims, such as billing “U1” services when the authorization was for “U2”, and that it relied on these system checks to catch discrepancies. However, reliance on Medicaid system edits does not absolve providers of responsibility for ensuring claims accuracy, and in this case, Greater New Jersey billed the service inaccurately but anticipated the billing system to reject the claim. Medicaid regulations require providers to certify that each claim submitted is true, accurate, and complete. In this case, Greater New Jersey submitted a claim that did not match the authorized service level. As such, OSC will not modify its audit findings.

#### **g. Greater New Jersey’s Objection: Failure to Document Services with a Progress Note**

##### **Greater New Jersey’s Comments**

Finally, the DAR states that for 1 of the 188 claims sampled, GNJCC failed to document services in a progress note. However, the DAR wholly ignores the evidence presented in GNJCC’s August 2024 Letter establishing that the State’s online Cyber system is rife with errors and glitches, which frequently result in progress notes previously uploaded to the system disappearing or becoming inaccessible. GNJCC uploads and maintains all its progress notes on the State’s cyber online system; however, for unknown reasons these progress notes frequently disappear in the system. By way of example, GNJCC has included screenshots indicating that progress notes GNJCC uploaded to the cyber site, and which were accessible on January 1, 2023 have since become inaccessible without explanation. See Exhibit 3. Despite possessing timestamped proof that these progress notes were in fact submitted on January 1, 2023, GNJCC has been unable to access these progress notes as recently March 17, 2025, with the cyber system giving the appearance that none were submitted. Accordingly, the mere fact that the progress note at issue is unavailable in the cyber system and that OSC was unable to locate it during the audit does not necessarily mean that GNJCC never submitted it. Thus, GNJCC should face no repayment obligation due to glitches in the States’ own cyber system.

##### **OSC’s Response**

OSC found that for 1 of 188 claims, totaling \$39 in reimbursement, Greater New Jersey failed to document services with a required progress note. Greater New Jersey attributed the

missing progress note to errors in the State's Cyber system and provided screenshots referencing an unrelated beneficiary's service date. However, these screenshots do not pertain to the claim at issue and do not demonstrate that a progress note ever existed for the service date in question. Additionally, Greater New Jersey failed to provide any other documentation, including an SDED form, to substantiate that the service was rendered. In the absence of any supporting documentation, OSC cannot validate the claim. As such, OSC will not modify its audit finding.