



# State of New Jersey

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*Director*

August 16, 2016

VIA ELECTRONIC AND CERTIFIED MAIL

Mr. Mitch Elman  
Administrator  
We Care Health Services, Inc.  
941 Whitehorse Ave, Suite 20  
Trenton, NJ 08610

RE: Final Audit Report – We Care Health Services, Inc. [REDACTED]

Dear Mr. Elman:

The New Jersey Office of the State Comptroller, Medicaid Fraud Division (OSC), conducted an audit of We Care Health Services, Inc. (WCHS) for the period beginning January 1, 2012 through December 31, 2013. OSC selected WCHS for a limited scope review to determine whether WCHS submitted claims and was paid for home health care services when the recipients who received these services were inpatients at a hospital. If so, these claims and subsequent payments would be in violation of federal and State laws and regulations. We are providing you with this final audit report.

## Executive Summary

As part of its oversight of the Medicaid and New Jersey FamilyCare (Medicaid/NJFC) programs, OSC conducted an audit that focused on a review of clinical documentation for home health care services to determine whether these services were rendered simultaneously with hospital services, for the same recipients, on the same dates during our audit period. As part of this audit, OSC confirmed with hospitals as to whether WCHS recipients for whom WCHS submitted claims for payment for services rendered were hospitalized for those identical dates of service.

Using the approach, OSC determined that WCHS was overpaid for 32 claims totaling \$2,359. This determination was made after a review of 38 sample claims resulted in an error rate of 84.21 percent. OSC extrapolated the errors over the total population of 181 claims. On this basis, OSC seeks to recover the extrapolated amount totaling \$9,599. The recovery is attributed to WCHS'

failure to provide documentation to support the claims reviewed during our audit period, and WCHS' acknowledgement of claims which were billed in error, for services purportedly provided at recipients' homes when the recipients were inpatients at hospital facilities.

### **Background**

WCHS is a home health care agency located in Trenton, New Jersey. Home health care agencies provide a variety of services to Medicaid/NJFC recipients at their place of residence, including homemaker-home health aide, skilled nursing, speech therapy, physical therapy, occupational therapy, medical social services and dietary/nutritional needs. Home health care agencies also provide personal care services. These services are non-medical activities, which allow the elderly and individuals with disabilities or chronic temporary conditions to remain in their homes. The non-medical activities that are performed by personal care assistants (PCAs) include bathing, dressing, light housework, medication management, meal preparation and transportation related to daily living.

Home health care services covered by Medicaid/NJFC fee-for-service programs are limited to those services provided directly by a home health agency and/or through an arrangement by the agency for another party to provide services. Each home health care agency that provides home health care services to Medicaid recipients must be approved by the Division of Medical Assistance and Health Services (DMAHS) to participate in the Medicaid/NJFC program.

Overall, home health care services are intended to rehabilitate and/or restore recipients to their optimal level of physical and/or mental functioning, self-care and independence. In addition, these services are directed toward preventing further deterioration by maintaining the present level of functioning; or directed toward providing supportive care in declining health situations.

### **Relevant Regulations**

For the purposes of this audit, the applicable regulations for home health care services in the Medicaid program are as follows:

N.J.A.C. 10:49-9.8, Provider certification and recordkeeping, providing, in part:

- (b) Providers shall agree to the following:
1. To keep such records as are necessary to disclose fully the extent of services provided, and, as required by N.J.S.A. 30:4D-12(d), to retain individual patient records for a minimum period of 5 years from the date the service was rendered;
  2. To furnish information for such services as the program may request;
  3. That where such records do not document the extent of services billed, payment adjustments shall be necessary;
  4. That the services billed on any claim and the amount charged therefore, are in accordance with the requirements of the New Jersey Medicaid and/or NJ FamilyCare programs;

5. That no part of the net amount payable under any claim has been paid, except that all available third party liability has been exhausted, in accordance with program requirements; and
6. That payment of such amount, after exhaustion of third party liability, will be accepted as payment in full without additional charge to the Medicaid or NJ FamilyCare beneficiary or to others on his behalf . . . .

N.J.A.C. 10:60-2.1, Covered home health agency services, providing, in part:

- (a) Home health care services covered by the New Jersey Medicaid and NJ FamilyCare fee-for-service programs are limited to those services provided directly by a home health agency approved to participate in the New Jersey Medicaid/NJ FamilyCare program or through arrangement by that agency for other services.
  1. Medicaid/NJ FamilyCare reimbursement is available for these services when provided to Medicaid or NJ FamilyCare fee-for-service beneficiaries in their place of residence, such as a private home, residential hotel, residential health care facility, rooming house and boarding home.
    - i. In residential health care facilities, homemaker-home health aide or personal care assistant services are excluded from Medicaid/NJ FamilyCare fee-for-service coverage.
    - ii. Home health services shall not be available to Medicaid or NJ FamilyCare fee-for-service beneficiaries in a hospital or nursing facility . . . .

N.J.A.C. 10:60-3.6, Clinical records:

- (a) Recordkeeping for personal care assistant services shall include the following:
  1. Clinical records and reports shall be maintained for each beneficiary, covering the medical, nursing, social and health related care in accordance with accepted professional standards. Such information shall be readily available, as required, to representatives of the Division or its agents.
  2. Clinical records shall contain, at a minimum:
    - i. An initial nursing assessment;
    - ii. A six-month nursing reassessment;
    - iii. A beneficiary-specific plan of care;
    - iv. Signed and dated progress notes describing the beneficiary's condition;
    - v. Documentation of the supervision provided to the personal care assistant every 60 days;
    - vi. A personal care assistant assignment sheet signed and dated weekly by the personal care assistant;
    - vii. Documentation that the beneficiary has been informed of rights to make decisions concerning his or her medical care; and
    - viii. Documentation of the formulation of an advance directive.

3. All clinical records shall be signed and dated by the registered professional nurse, in accordance with accepted professional standards, and shall include documentation described in (a)2 above.

### **Objective**

The objective of this limited scope audit was to determine whether WCHS appropriately billed for home health care services in accordance with applicable federal and State laws and regulations. The audit was conducted under the authority of the Medicaid Program Integrity and Protection Act, N.J.S.A. 30:4D-53 *et seq.* and 52:15C-23.

### **Scope**

The scope of this desk audit entailed a limited review, evaluation and discussion of 181 claims totaling \$12,741.49. The 181 claims identified by OSC were for hospital and home care services, which were billed for Medicaid recipients on the same dates of service. OSC reviewed a sample of 38 statistically valid claims from the population of 181 claims. As part of the scope of this audit, to ensure that the recipients were, in fact, in a hospital on the same date of home health services having been provided and billed, OSC also obtained confirmation of recipient hospital records. The period of this audit was January 1, 2012 through December 31, 2013.

### **Audit Findings**

#### Review of Sample Claims

1. OCS's review revealed that WCHS failed to produce documentation to support the home health care or PCA services billed for 16 of the 38 (42%) sample claims reviewed, totaling \$1,059.06. This is a violation of N.J.A.C. 10:49-9.8(b)(1), which requires providers "to keep such records as are necessary to disclose fully the extent of services provided," for a minimum period of five years from the date of service.
2. OSC noted that home health aides (HHAs) failed to record the time they arrived and the time they departed to support the hours billed for 6 of the 38 claims reviewed (15.79%), totaling \$603.80, contrary to N.J.A.C. 10:60-3.6(a)(2)(vi). Also, HHAs and PCAs did not always indicate the services rendered on their activity reports contrary to N.J.A.C. 10:49-9.8(b)(1).
3. OSC's desk review of recipient hospital records confirmed that 10 of the 38 home health claims (26.31%), totaling \$696.26, were for recipients who were hospitalized during the same period of time that home health services were reportedly rendered, in violation of N.J.A.C. 10:60-2.1(a)(1)(ii), which does not permit home health services to recipients in a hospital or nursing facility setting.

Overall, OSC seeks the recovery of \$9,599.00 from WCHS for services that were not billed in accordance with Medicaid regulations. This amount was derived from the extrapolation of 32 out

of 38 sample claims that were not billed in accordance with Medicaid regulations. The 32 claims in error, which total \$2,359.12, were extrapolated to the total population of 181 claims, which total \$12,741.49, resulting in a total recovery of \$9,599.00.

### **Recommendation**

OSC recommends that WCHS reimburse Medicaid/NJFC a total of \$9,599.00. Also, WCHS should reinforce the requirements of applicable Medicaid regulations by training its employees regarding the Medicaid programs documentation and record retention requirements, including the prohibition against billing Medicaid for home health care services when a recipient is hospitalized.

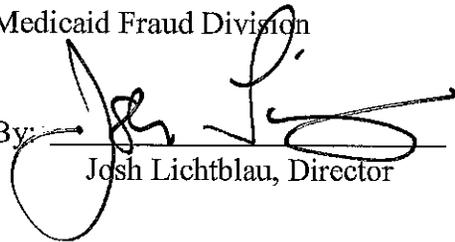
### **Auditee Response**

WCHS agreed with OSC's findings and stated "[i]t is troublesome of course that the audit revealed that we were not 100% compliant in keeping with the regulations put forth before us. Because our non-compliance resulted in reimbursements that we are not entitled to, we are of course in full agreement that those monies are to be returned." Additionally, WCHS indicated that it "is taking steps to improve our processes and prevent deficiencies going forward."

The full text of WCHS's response is attached to this report.

Sincerely,

OFFICE OF THE STATE COMPTROLLER  
Medicaid Fraud Division

By: 

Josh Lichtblau, Director

### Attachment

Cc: Don Catinello, Supervisor Regulatory and Recovery  
Michael McCoy, Manager – Fiscal Integrity  
Michael Morgese, Audit Supervisor

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Michael M. Morgese  
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Office of the State Comptroller  
20W. State Street 4th Floor  
P.O. Box 024  
Trenton, NJ 08625

RE: Draft Audit Report [REDACTED]

Mr. Morgese:

Thank you for allowing me the extra time for comments regarding the audit report. It has always been the intent of We Care Health Services, Inc., to follow all of the rules and regulations regarding the operation of a Home Care Agency within the Medicaid program. As demonstrated by our reputation of serving the elderly and disabled community with quality care for nearly thirty years, we are an important part of the community and wish to serve that same community for many years to come.

It is troublesome of course that the audit revealed that we were not 100% compliant in keeping with the regulations put forth before us. Because our non-compliance resulted in reimbursements that we are not entitled to, we are of course in full agreement that those monies are to be returned. There was one point of disagreement with a specific matter of record keeping:

Finding 2: Client K. R.- Under normal circumstances, documentation for Time In/Time Out would have been provided. At the time, GO (MLTSS) set up a "Live-In" scenario for 24 hour care and requested to receive timesheets showing an aide in the home for 24 hours without a time in or time out.

Finding 2: Client K. R.- As far as hospital notes being confirmed for this client, although not a disagreement with the findings, We Care Health Services was deceived by the client's family into believing that the client was not in the hospital. They coerced the aide to lie about taking care of the client in the hospital. We did not actually discover this until it was revealed in the audit. We understand of course that ignorance is not an excuse. We are pursuing collection from the family.

We Care Health Services is taking steps to improve our processes and prevent deficiencies going forward. In addition to in-service training to the current staff, we have recently added and trained a new Administrative Assistant. We have also hired a home care consulting service that started in February and will continue on through the summer. All deficiencies that occurred were totally unintentional and inadvertent. With that being said, we will do our best to be 100% compliant going forward.

Sincerely,

  
Mitch Elman  
Administrator

