STATE OF OHIO
OFFICE OF THE AUDITOR

JIM PETRO, AUDITOR OF STATE

# Ohio Medicaid Program

## *Review of Medicaid Provider Reimbursements Made to Express-Med, Inc.*

*A Compliance Review by the:*

**Fraud, Waste and Abuse**
**Prevention Division**

***May 2002*** ***AOS/FWAP-02-023C***

STATE OF OHIO
OFFICE OF THE AUDITOR
JIM PETRO, AUDITOR OF STATE

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Mr. Charles Poynter, President
Express-Med, Inc.
6530 West Campus Oval
New Albany, OH 43054

Re: Medicaid Review of Provider Number #2021681

Dear Mr. Poynter:

We have completed our review of selected medical services rendered to Medicaid recipients by Express-Med, Inc. for the period April 1, 1997 through March 31, 2001. We identified findings in the amount of $468,441.06, which must be repaid to the Ohio Department of Job and Family Services. A provider remittance form is located at the back of this report for remitting payment. The attached report details the basis for the findings.

Please be advised that in accordance with Ohio Revised Code Section 131.02, if payment is not made to the Ohio Department of Job and Family Services within 45 days of receipt of this report, this matter will be referred to the Ohio Attorney General's office for collection.

As a matter of courtesy, a copy of this report is being sent to the Ohio Department of Job and Family Services, the Ohio Attorney General and the Ohio State Medical Board. If you have any questions, please feel free to contact Johnnie L. Butts, Jr., Chief, Fraud, Waste and Abuse Prevention Division, at (614) 466-3212.

Yours truly,

JIM PETRO
Auditor of State

May XX, 2002

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## ABBREVIATIONS

| | |
|---|---|
| AOS | Auditor of State |
| CMS | Center for Medicare and Medicaid Services |
| CPT | Current Procedural Terminology |
| DME | Durable Medical Equipment |
| HCBS | Home and Community Based Services |
| HCFA | Health Care Financing Administration |
| HCPCS | Common Procedural Coding System |
| MMIS | Medicaid Management Information System |
| OAC | Ohio Administrative Code |
| ODJFS | Ohio Department of Job and Family Services |
| OHP | Ohio Health Plans |

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## *SUMMARY OF RESULTS*

The Auditor of State performed a review of Express-Med, Inc., Provider #2021681, doing business at 6530 West Campus Oval, New Albany, OH 43054. We identified findings in the amount of $468,441.06. The cited funds are recoverable as they resulted from Medicaid claims submitted by Express-Med, Inc. for services that did not meet reimbursement rules under the Ohio Medicaid Durable Medical Equipment Manual and the Ohio Administrative Code (OAC).

## *BACKGROUND*

The Auditor of State, working in cooperation with the Ohio Department of Job and Family Services (ODJFS), performs reviews to assess Medicaid providers' compliance with federal and state claims reimbursement rules. A provider renders medical, dental, laboratory, or other services to Medicaid recipients.

Medicaid was established in 1965 under the authority of Title XIX of the Social Security Act and is a federal/state financed program which provides assistance to low income persons, families with dependent children, the aged, the blind, and the disabled. ODJFS administers the Medicaid program. The rules and regulations that providers must follow are issued by ODJFS in the form of an Ohio Medicaid Provider Handbook.

Durable medical equipment services are among the services reimbursed by the Medicaid program when delivered by eligible providers to eligible recipients. Durable medical equipment encompasses equipment which can stand repeated use and is primarily and customarily used to serve a medical purpose. It also includes certain medical supplies which are "consumable, disposable, or have a limited life expectancy" (OAC 5101:3-10-02(A)(2). Requirements for providers of durable medical equipment services are covered in ODJFS' Durable Medical Equipment Manual, which is a part of the Ohio Medicaid Provider Handbook.

Incontinence supplies are among the eligible services provided to Medicaid recipients by Durable Medical Equipment suppliers. OAC 5101:3-10-21 (effective September 1, 1998) lists the requirements of providing incontinence supplies. The following summarizes these requirements:

- Medicaid consumer must be more than 36 months of age
- The consumer is not a resident of a nursing home or intermediate care facility for the mentally retarded
- Incontinence is secondary to a disease, developmental delay/disability, or injury of the brain or spinal cord which results in irreversible loss of control of the urinary bladder and/or anal sphincter
- A prescription that is written, signed, and dated by the treating physician must be obtained every twelve months. The prescription must be obtained by the provider prior to the first date of service.

- The prescription must specify the applicable diagnosis of the specific disease, injury, developmental delay/disability which causes incontinence. The prescription must also specify the type of incontinence

- A prescription that list only incontinence or incontinence supplies and does not specify the reason for the incontinence does not meet the requirements

- Providers must ascertain from the consumer or their care giver on a monthly basis the required type and amount of incontinence garments and/or related supplies

Pursuant to the Ohio Medicaid Provider Handbook, Chapter 3334, Section IV, Subsection (B), and OAC Section 5101:3-1-172, providers are required to "maintain all records necessary and in such form so as to fully disclose the extent of services provided and significant business transactions. The provider will maintain such records for a period of six years from the date of receipt of payment or until any initiated audit is completed, whichever is longer."

In addition, rule 5101:3-1-29 (C) of the OAC states: "In all instances of fraud and abuse, any amount in excess of that legitimately due to the provider will be recouped by the department through its surveillance and utilization review section, the state auditor, or the office of the attorney general."

"Abuse" is defined in rule 5101:3-1-29 (B) as " . . . those provider practices that are inconsistent with professional standards of care; medical necessity; or sound fiscal, business, or medical practices; and result in an unnecessary cost to the medicaid program."

## *PURPOSE, SCOPE AND METHODOLOGY*

The purpose of this review was to determine whether the Provider's claims to Medicaid for reimbursement of incontinence services were in compliance with regulations and to calculate the amount of any overpayment resulting from the noncompliance.

On November 26, 2001, we informed the Provider by letter that they had been selected for a compliance review. An Entrance Conference was held on December 18, 2001 with Charles Poynter, President, Larry Pliskin, Corporate Counsel and Compliance Officer, Kellie Risser, General Manager of Incontinence, Lisa Bush, Superintendent of Incontinence, Cara Fergusen, Operations Manager and Stephanie Shroyer, Compliance Assistant, all of Express-Med, Inc.

We utilized ODJFS' Ohio Medicaid Provider Handbook and the OAC as guidance in determining the extent of services and applicable reimbursement rates. We obtained the provider's claims history from ODJFS' Medicaid Management Information System (MMIS), which lists services billed to and paid by Medicaid. This computerized claims data includes patient names, places of service, dates of service, and type of procedure/service. These healthcare procedures and services are codified using one of more of the following five digit coding systems:

- Current Procedural Terminology (CPT)
- Center for Medicare and Medicaid Services (CMS) Common Procedural Coding System (HCPCS), and
- ODJFS local level codes.

The scope of our review was limited to claims related to incontinence supplies (Procedure Codes Y9131, Y9132, Y9133, Y9136, Y9138, Y9140 and A4554) for which the Provider was paid by Medicaid during the period April 1, 1997 through March 31, 2001. During the audit period the Provider was paid $1,023,109.24 for 9,341 claims. To facilitate an accurate and timely review of paid claims, we selected a statistically random sample of 102 claims containing 150 services reimbursed by Medicaid. The Provider was reimbursed $10,701.55 for the services in our sample. We examined the amounts reimbursed by ODJFS and conducted an on-site review of company records. We also gave the Provider additional time to obtain medical files from the recipients' physicians, in lieu of relying solely on records maintained by the Provider.

Work on this audit was performed between November 2001 and February 2002, and in accordance with government auditing standards. Detailed below are the results of this review.

## *RESULTS*

We identified findings amounting to $468,441.06 for Missing and Invalid Prescriptions. A discussion of the deficiencies, the number of instances found, and the amount overpaid follows.

## Missing and Invalid Prescriptions

Section 5101:3-10-21 (B) of the Ohio Administrative Code states that, effective September 1, 1998, "A prescription that is written, signed and dated by the treating physician must be obtained at least every twelve months. The prescription must be obtained by the provider prior to the first date of service in the applicable twelve-month period and must specify: (1) The applicable diagnosis of the specific disease or injury causing the incontinence; or (2) developmental delay or disability, including applicable diagnoses; and (3) type of incontinence." A physician's written prescription is the Provider's basis for verifying the medical necessity of incontinence supplies.

We conducted a field review of 102 sample claims. As a result of our review, we found that patient records for 66 of 102 claims, involving 91 services, were missing[1], did not include an applicable diagnosis or a reason for needing incontinence supplies, and/or had medical records dated after or 12 months prior the date of service. Thus, we were unable to verify the medical necessity for incontinence supplies. Table 1 describes the reasons we took exception with the 91 services.

1Because two of the records reviewed related to services provided prior to September 1, 1998, a verbal order, in lieu of a written prescription, would have sufficed to demonstrate medical necessity for those claims. However, the medical records did not contain a verbal order. The Provider received reimbursements of $19,203.50 (1.9% of total reimbursements) for 250 services (1.9% of total services) related to incontinence supplies prior to September 1, 1998.

**Table 1: Missing and Invalid Services**

| Basis for Exception | Number of Occurrences |
|---|---|
| Supporting records were dated after or more than 12 months prior to the service date. | 33 |
| No supporting records existed. | 29 |
| Supporting records did not mention incontinence. | 25 |
| Supporting records did not state incontinence type. | 18 |
| Supporting records did not contain a diagnosis. | 14 |
| Prescriptions/patient records /physician notes were not signed and/or dated by a physician. | 8 |
| **Total Occurrences** | 127* |

* Total occurrences are greater than 91 because some services had more than one deficiency.
Source: AOS analysis of the Provider's medical records

## Findings for Missing and Invalid Prescriptions

We projected the error rate for the 91 services (Table 1) across the total population of incontinence supply claims paid to the Provider. This resulted in a projected finding of $573,372.80, with a 95 percent certainty that the actual finding fell within a range of $468,441.06 to $678,304.54. Because this range is larger than we require when projecting a sample result, we are making a finding for $468,441.06 – the lower amount of our range. We believe that using the lower amount is conservative because we can state with 97.5 percent certainty that the actual finding would have been at least this amount had we reviewed all of the Provider's claims for the audit period.

## *PROVIDER'S RESPONSE*

An Exit Conference was held on February 14, 2002 with Express-Med, Inc. At that meeting, the Provider indicated that controls had been set in place to ensure compliance with Medicaid requirements. We also accepted additional information for further consideration.

The following information was submitted by the Express-Med Compliance Officer to AOS on February 14, 2002, to show documentation of compliance policy guidelines put in place during early calendar year 2000.

Express-Med formalized its compliance functions several years ago. As a result of implementing our formal Compliance Program, we began to continually and repeatedly review the applicable Ohio Medicaid regulations. We were prompted several years ago to become more conservative in our interpretation of the Ohio Medicaid guidelines involving document collection and retention. To ensure ease of producing sufficient evidence of orders and medical necessity for incontinence supplies if needed in the future, we did several things, including the following:

Modified our process of document storage, revised the physician order form, implemented regular monthly compliance audits, updated and improved the information collection functions related to our computer systems when processing consumer requests, instituted a computer system validation check increase accuracy of shipments, and improved the process of refunding reimbursements for incontinence supplies that are subsequently returned by the recipient.[2]

Auditor's Note: Based on information received from the Provider that procedural changes were implemented between January 2000 and April 2000, we performed a "before and after" analysis of the deficiencies identified in our sample. The analysis supported the Provider's assertion that the new procedures improved compliance, in that the error rate in our sample decreased substantially. However, because more than two thirds (68.7 percent) of the claims in our review were in the high error rate period, our findings were not materially affected. In fact, they were $19,826.59 higher when we divided our sample.

To afford an opportunity to provide additional comments, a draft report was sent to the Provider on March 22, 2002. At the Provider's request, we then met on April 22, 2002 to discuss our audit results. At that time, the Provider submitted additional information for our consideration. The additional information included prior legal cases which the Provider believes supports the adequacy of documentation maintained in support of their Medicaid claims. It also included recently obtained attestations from physicians that incontinence supplies were medically necessary for the recipients during the time encompassed by our sample cases.

After careful review of the additional information, we believe our findings are consistent with the requirements of Section 5101:3-10-21 (B) of the Administrative Code (see above). Moreover, in reviewing documentation submitted by the Provider, we accepted documentation from patients' physicians, in lieu of a specific prescription from the Provider's files, as long as the documentation was not dated after, or more than 12 months prior to, the date of service in question, and contained evidence of incontinence and a valid diagnosis leading to incontinence. However, as most of the additional documentation given us was obtained and dated after we began our audit, we did not accept it. Section 5101:3-10-21 (B) is clear that documentation obtained "after the fact" is not acceptable support for reimbursement claims.

[2] *Information in this paragraph summarizes information in the original letter.*

## APPENDIX 1

### Table 1: Summary of Record Analysis of Express-Med, Inc. For the Period April 1, 1997 to March 31, 2001

| Description | Audit Period April 1, 1997 - March 31, 2001 |
|---|---|
| Type of Examination | Statistical Random Sample of 102 Claims |
| Number of Services Involving Incontinence Supplies Included in Claims Sampled | 150 |
| Amount Paid for Services Sampled | $10,701.55 |
| Total Number of Claims with Incontinence Supplies in Audit Period | 9,308 |
| Total Number of Incontinence Supply Services in Audit Period | 13,397 |
| Total Medicaid Amount Paid During Audit Period for Incontinence Supplies | $1,018,337.27 |
| Upper Limit at 95% Confidence Level | $678,304.54 |
| Lower Limit at 95% Confidence Level | $468,441.06 |
| Projected Finding | $573,372.80 |

Note: Our finding is $468,441.06 because the range around our point estimate ($573,372.80) is larger than we require when projecting a sample result. Therefore, we are using the lower amount of our range.

Source: AOS, FWAP review of Medicaid reimbursements to Express-Med, Inc. for Procedure Codes Y9131, Y9132, Y9133, Y9136, Y9138, Y9140 and A4554 during the period April 1, 1997 through March 31, 2001.

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# PROVIDER REMITTANCE FORM

Make your check payable to the Treasurer of State of Ohio and mail check along with this completed form to:

Ohio Department of Job and Family Services
Post Office Box 182367
Columbus, Ohio 43218-2367

| | |
|---|---|
| Provider: | Express-Med, Inc.<br>6530 West Campus Oval<br>New Albany, OH 43054 |
| Provider Number: | #2021681 |
| Review Period: | April 1, 1997 through March 31, 2001 |
| AOS Finding Amount: | $468,441.06 |
| Date Payment Mailed: | |
| Check Number: | |

**IMPORTANT:** To ensure that our office properly credits your payment, please also fax a copy of this remittance form to: Charles T. Carle at (614) 728-7398.

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