



Dave Yost • Auditor of State

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**GEORGE SEREDNESKY, PH.D.
FRANKLIN COUNTY**

TABLE OF CONTENTS

Title	Page
Independent Accountants' Report	1
Compliance Report	3

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Dave Yost • Auditor of State

Independent Accountant's Report

George Serednesky, Ph.D.
1570 Cleveland Avenue
Columbus, Ohio 43211

RE: Medicaid Provider Number 262139

Dear Dr. Serednesky:

We have examined George Serednesky, Ph.D. (the Provider) for compliance with Ohio Administrative Code (Ohio Admin. Code) §§ 5101:3-8-05 and 5101:3-4-29 during the period of July 1, 2007 to June 30, 2011. Our examination was performed under our authority in Section 117.10 of the Ohio Revised Code. Dr. Serednesky is responsible for his compliance with those requirements. Our responsibility is to report on the Provider's compliance based on our examination.

Our examination included reviewing, on a test basis, evidence about the Provider's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our conclusions. Our examination does not provide a legal determination on the Provider's compliance with specified requirements.

We examined 168 psychological services and identified 297 errors relating to non-compliance with those requirements. We found the Provider was overpaid by Ohio Medicaid between July 1, 2007 and June 30, 2011 in the amount of \$186,607.14. This finding plus interest in the amount of \$14,355.97 totaling \$200,963.11, is immediately due and payable to the Office of Medical Assistance (OMA) as of the date this examination report is released.¹ After October 18, 2012, additional interest will accrue at the rate of \$40.90 per day until the finding and interest is paid in full.

When the Auditor of State (AOS identifies fraud, waste or abuse by a provider in an examination,² any payment amount in excess of that legitimately due to the provider will be recouped by OMA through its office of fiscal and monitoring services, the state auditor, or the office of the attorney general. Ohio Admin. Code § 5101:3-1-29(B). Therefore, a copy of this report will be forwarded to OMA because it is the state agency charged with administering Ohio's Medicaid program. OMA is responsible for making a final determination regarding recovery of our findings and any accrued interest. If you agree with the findings contained herein, you may expedite repayment by contacting OMA's Office of Legal Services at (614) 752-3631.

¹ Effective September 10, 2012. OMA replaced the Ohio Department of Job and Family Services (ODJFS) as the single state agency responsible for supervising the administration of Ohio's Medicaid program pursuant to Ohio Rev. Code § 5111.01.

² "Fraud" is an intentional deception, false statement, or misrepresentation made with the knowledge that the deception, false statement, or misrepresentation could result in some unauthorized benefit to oneself or another person. "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 § 5101:3-1-29(A).

George Serednesky, Ph.D.
Independent Accountant's Report on
Medicaid Compliance
Page 2

Copies of this report are also being sent to the Medicaid Fraud Control Unit of the Ohio Attorney General's Office; the U.S. Department of Health and Human Services/Office of Inspector General; and the State Board of Psychology of Ohio. In addition, copies are available to the public on the Auditor of State website at www.ohioauditor.gov.

Sincerely,

A handwritten signature in black ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D" and a long, sweeping tail on the "y".

Dave Yost
Auditor of State

October 18, 2012

Compliance Report for George Serednesky, Ph.D.

Background

Title XIX of the Social Security Act, known as Medicaid, provides federal cost-sharing for each state's Medicaid program. Medicaid provides health coverage to families with low incomes, children, pregnant women, and people who are aged, blind, or who have disabilities. In Ohio, the Medicaid program is administered by OMA.

Hospitals, long-term care facilities, managed care organizations, individual practitioners, laboratories, medical equipment suppliers, and others (all called "providers") render medical, dental, laboratory, and other services to Medicaid patients. The rules and regulations that providers must follow are specified in the Ohio Administrative Code and the Ohio Revised Code. The fundamental concept underlying the Medicaid program is medical necessity of services: defined as services which are necessary for the diagnosis or treatment of disease, illness, or injury, and which, among other things, meet requirements for reimbursement of Medicaid covered services. See Ohio Admin. Code § 5101:3-1-01(A).

The Auditor of State performs examinations to assess provider compliance with reimbursement rules to ensure that services billed to Ohio Medicaid are properly documented and consistent with professional standards of care, and medical necessity. According to Ohio Admin. Code § 5101:3-1-17.2(D), 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 or until any audit initiated within the six year period is completed. Providers must furnish such records for audit and review purposes. Ohio Admin. Code § 5101:3-1-17.2(E)

The Provider's Ohio Medicaid Provider number is 262139 and the Provider is an independent licensed psychologist currently located in Franklin County, Ohio. The Ohio Medicaid program reimbursed 3,022 services rendered on 1,837 recipient dates of service (RDOS)³ for a total of \$186,607.14 billed under the Provider's Medicaid Number during the examination period.

Some Ohio Medicaid recipients may be eligible to receive psychology services provided by a licensed psychologist. Qualifying psychological services must be medically necessary for the diagnosis and treatment of an illness or injury to be a covered Medicaid service. See Ohio Admin. Code § 5101:3-8-05(B) Psychological services include psychological and neuropsychological testing, diagnostic interviews, and therapeutic services. See Ohio Admin. Code § 5101:3-8-05(C), (D), and (E) Psychological services can be provided by a clinical psychology doctoral level intern completing a required internship. The doctoral intern must be under the direct supervision of the licensed psychologist responsible for the consumer's care. See Ohio Admin. Code § 5101:3-8-05(F) According to Ohio Admin. Code § 5101:3-8-05(I), the consumer's medical record must support the medical necessity of services performed and the records, at a minimum, should include the following:

- Date the service was provided;
- Type of tests and/or type of therapies performed;
- Amount of face-to-face time spent with consumer on testing or therapy;
- Discipline and Signature of the professional providing the service; and
- Treatment plans with goals and the type, duration and frequency of therapy services.

³ A recipient date of service is defined as all services for a given patient on a specific date of service.

Purpose, Scope, and Methodology

The purpose of this examination was to review Medicaid reimbursements made to the Provider for services and determine whether the Provider's services complied with Ohio Medicaid regulations. At the conclusion of the examination, we will identify, if appropriate, any findings resulting from non-compliance.

The scope of the engagement was limited to an examination of psychological services for which the Provider rendered services to Medicaid patients and received payment during the period of July 1, 2007 to June 30, 2011. We received the Provider's paid claims history from the Medicaid Management Information System database of services billed to and paid by Ohio's Medicaid program. We selected a statistical random sample to facilitate a timely and efficient examination as permitted by Ohio Admin. Code § 5101:3-1-27(B)(1).

Prior to beginning our fieldwork, we performed an exception test on the Provider's Medicaid payments to determine if any potentially inappropriate reimbursements occurred. The exception test identified seven psychotherapy services that were rendered to adults 21 years of age and older between July 1, 2007 and December 31, 2007. See Ohio Admin. Code § 5101:3-8-05. Those seven services were disallowed and removed from the population used to select the statistical sample.

An engagement letter was sent to the Provider on June 19, 2012, setting forth the purpose and scope of the examination. Fieldwork was performed in July 2012. The services billed to and paid by Ohio Medicaid were submitted with a modifier "AH", which identified that services were rendered by a licensed psychologist. During fieldwork, we inquired about services being rendered by non-licensed psychologists. The Provider stated that he was allowed to bill Ohio Medicaid for services provided by psychology assistants because he was awarded a permanent injunction in 1979 against enforcement of Ohio Admin. Code § 5101:3-8-02.⁴ Section 5101:3-8-02 was amended in 2002 and no longer applies to psychological services.

This examination, instead, reviews the Provider's compliance with Ohio Admin. Code § 5101:3-8-05, which was promulgated by OMA on July 1, 2002. According to Ohio Admin. Code § 5101:3-8-05, Ohio Medicaid will reimburse providers for services by graduate doctoral level interns under the direct supervision of the licensed psychologist responsible for the patient's care under certain circumstances. See Ohio Admin. Code § 5101:3-8-05(F) Services provided by all other unlicensed individuals under the personal supervision of a licensed psychologist such as the Provider was using here, however, continued to be nonreimbursable. Ohio Admin. Code § 5101:3-8-05(G)(5)

Results

We identified findings of \$186,192.32 based on the sample of services examined. The review of these services identified that the documentation did not have the signature and discipline of the professional providing the service or the amount of face-to-face time spent with the consumer. The examination also noted that 77.6 percent of the services were not provided by a licensed psychologist. Additionally, we identified findings of \$414.82 from our exception test regarding services to adults.

⁴ The Provider gave us a copy of *Serednesky v. Ohio Dept. of Pub. Welfare* (Nov. 27, 1979), Franklin App. 78AP-826. In *Serednesky*, the court held that Ohio Admin. Code § 5101:3-8-02 did not preclude the Provider from charging Ohio Medicaid for services provided by an psychology intern working under his direct supervision as the rule was silent on this issue. The court did not address whether the Provider could charge Medicaid for services provided by unlicensed individuals other than interns working under his supervision. Here, the Provider informed us that the nonlicensed psychologists were not graduate doctoral level interns working under his direct supervision. Consequently, the *Serednesky* case would not apply here even if this examination were seeking to determine the Provider's compliance with the old rule at issue in that case.

While certain services had more than one error, only one finding was made per service. The basis for our findings is discussed below in detail.

Services Not Rendered by Licensed Psychologist and Documentation Lacking Signature and Discipline of Professional Providing Services

A statistical sample of 161 psychological services was selected and examined to ensure that there was substantive documentation to support the service rendered. The examination of documentation contained in the medical records found that 125 services were not rendered by a licensed psychologist and all of the progress notes and log sheets lacked the signature or discipline of the professional rendering the service as required by Ohio Admin. Code § 5101:3-8-05(I)(6).

Medicaid regulations specify that services must be billed under the individual psychologist's provider number only when the services are provided by an independently practicing psychologist. See Ohio Admin. Code § 5101:3-8-05(B)(1) In addition, each claim was submitted with a modifier code of "AH" which signifies that the service was personally provided by a licensed psychologist. The Provider indicated that he submitted Medicaid claims for services provided by psychology assistants (unlicensed practitioners) using the "AH" modifier as he knew that this was necessary in order to be reimbursed for the services.

The review of the medical records found that the name and discipline of the professionals rendering services was not documented. Upon inquiry, the Provider explained that a log sheet was maintained in each chart that contained the date of service, type of service (procedure code) and the initials of the person that rendered the service. We compiled the initials and obtained the names which corresponded to them from the Provider. The review of the log sheets identified 125 services that were not rendered by the Provider. We verified with the Provider that no individuals providing services were clinical psychology doctoral level interns completing a required internship. The Provider identified these individuals as psychology assistants and indicated that he supervised their service provision. The Provider initialed some documentation as evidence of supervision.

We disallowed the reimbursement for all psychological services paid during the examination period and identified a finding of \$186,192.32. We recommend the Provider ensure that only services eligible for reimbursement per Ohio's Medicaid regulations are submitted for reimbursement.

Content of Medical Records

The Provider completes a progress note that describes the services rendered to the patient. In addition to the progress note, the Provider lists the date and type of service on a log sheet in each consumer's medical record. While the log sheet lists a code that corresponds to the procedure code billed, the codes reflect a range of time spent with the consumer (i.e., 20 to 30 minutes). In addition to lacking the signature and discipline of the professional that rendered the service, all of the progress notes reviewed omitted the amount of face-to-face time spent with the consumer in testing or therapy. In addition, the following errors were noted:

- 4 services where the activity documented did not match the service billed;
- 2 services for which there was no treatment plan in the record; and
- 3 services where the service documentation did not support time billed.

We did not, however, take findings for incomplete documentation since the reimbursement for these services had already been disallowed for no signature and discipline and services not provided by licenses psychologist. We caution the Provider that this is a serious failure which, if not corrected, would likely result in findings in the future. We recommend that the Provider review all requirements for medical record documentation and develop procedures to ensure that all requirements are addressed prior to submitting claim for reimbursement.

Services Rendered to Adults

Psychological services to adults over the age of 21 were not a covered service prior to January 1, 2008. See Ohio Admin. Code § 5101:3-8-05 The examination of services billed to and paid by Ohio Medicaid identified seven services that were rendered to adults between July 1, 2007 and December 31, 2007.

Those seven services were disallowed, totaling \$414.82.

Provider Response

A draft report along with a detailed list of services for which we took findings was mailed to the Provider on November 6, 2012, and the Provider was afforded an opportunity to respond to this examination report.

In responding to the report, the Provider objected to the identified overpayments and argued that Ohio Admin. Code § 5101:3-8-05(l) did not impose an absolute obligation that the medical record include the components listed in the rule.

AOS Response: Additional language was added to clarify that the medical record must support the medical necessity of services performed and the minimum elements that should be contained in the record. During the exit conference, AOS inquired if the practice of billing for services provided by psychology assistants had stopped. The Provider could offer no assurance that this practice had been discontinued.



Dave Yost • Auditor of State

GEORGE SEREDNESKY, PH D

FRANKLIN COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
DECEMBER 18, 2012**