



Dave Yost • Auditor of State

**THIS PAGE INTENTIONALLY LEFT BLANK**

**MELODI M. GROSS, LPN  
ASHTABULA, OHIO**

**TABLE OF CONTENTS**

<b>Title</b>	<b>Page</b>
Independent Auditor's Report .....	1
Compliance Examination Report .....	3
Recommendation: Service Documentation.....	5
Recommendation: Service Authorization.....	6

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Dave Yost • Auditor of State

## **INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH MEDICAID REQUIREMENTS APPLICABLE TO PRIVATE DUTY NURSING SERVICES**

Melodi M. Gross, LPN  
6767 North Main Street  
North Kingsville, Ohio 44068

Dear Ms. Gross:

We were engaged to examine your (the Provider's) compliance with specified Medicaid requirements for provider qualifications, service documentation and service authorization related to the provision of private duty nursing services during the period of January 1, 2012 through December 31, 2014. We confirmed your licensure status, the licensure status of your supervising registered nurse (RN) and tested service documentation to verify that there was support for the date of service, the procedure code, and the units billed to and paid by Ohio Medicaid. In addition, we tested to determine if your service documentation contained the required elements. We also tested the plans of care and all services plans to determine if you were appropriately authorized. The accompanying Compliance Examination Report identifies the specific requirements examined.

Our responsibility is to express an opinion on the Provider's compliance with the specified Medicaid requirements based on conducting the examination in accordance with attestation standards established by the American Institute of Certified Public Accountants. The examination does not provide a legal determination on the Provider's compliance with the specified requirements.

### ***Provider's Responsibility***

The Provider entered into an agreement with the Ohio Department of Medicaid (ODM) to provide services to Medicaid recipients (the Provider Agreement). The Provider Agreement outlines the responsibility to adhere to the terms of the agreement, state statutes and rules, federal statutes and rules, and the regulations and policies set forth in the Medicaid Handbook including the duty to maintain records supporting claims for reimbursement made by Ohio Medicaid. Therefore, the Provider is responsible for complying with the requirements and laws outlined by the Medicaid program.

### ***Internal Control Over Compliance***

The Provider is responsible for establishing and maintaining effective internal control over compliance with the specified Medicaid requirements referred to above. We did not perform any test of the internal controls and we did not rely on the internal controls in determining our examination procedures. Accordingly, we do not express an opinion on the effectiveness of the Provider's internal control over compliance.

### ***Basis for Qualified Opinion***

Our examination disclosed that in a material number of instances the plans of care did not specify the scope, frequency or duration of the authorized service. Also, in one exception test we found material non-compliance with services lacking documentation to support the service.

**Qualified Opinion on Compliance**

In our opinion, except for the effects of the matters described in the Basis for Qualified Opinion paragraph, the Provider has complied, in all material respects, with the aforementioned requirements pertaining to provider qualifications, service documentation and service authorization for the period of January 1, 2012 through December 31, 2014.

Our testing was limited to the specified Medicaid requirements detailed in the Compliance Examination Report. We did not test other requirements and, accordingly, we do not express an opinion on the Provider's compliance with other requirements.

We found the Provider was overpaid by Ohio Medicaid for services rendered between January 1, 2012 and December 31, 2014 in the amount of \$3,167.01. This finding plus interest in the amount of \$241.10 totaling \$3,408.11 is due and payable to the ODM upon its adoption and adjudication of this report. When the Auditor of State identifies fraud, waste or abuse by a provider in an examination,<sup>1</sup> any payment amount in excess of that legitimately due to the provider will be recouped by ODM, the state auditor, or the office of the attorney general. Ohio Admin. Code § 5160-1-29(B)

This report is intended solely for the information and use of the ODM, and is not intended to be, and should not be used by anyone other than this specified party.



**Dave Yost**  
Auditor of State

March 17, 2017

---

<sup>1</sup> "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 constitutes an overutilization of Medicaid covered services and result in an unnecessary cost to the Medicaid program. Ohio Admin. Code § 5160-1-29(A)

## Compliance Examination Report

### Background

Title XIX of the Social Security Act, known as Medicaid, provides federal cost-sharing for each state's Medicaid program. 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 prevention, diagnosis, evaluation or treatment of an adverse health condition. See Ohio Admin. Code § 5160-1-01(A) and (B) 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 from receipt of payment 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 § 5160-1-17.2(D) and (E)

Home care nursing services under Ohio Medicaid may include private duty nursing services. A nurse rendering private duty nursing services requires written authorization. See Ohio Admin. Code § 5160-12-02.3(B) In addition, private duty nursing services must be provided and documented in accordance with the recipient's plan of care, which is a medical treatment plan that is established, approved and signed by the treating physician. The plan of care must be signed and dated by the treating physician prior to requesting reimbursement for a service. See Ohio Admin. Code § 5160-12-02(B)

The Provider is a licensed practical nurse who rendered private duty nursing services to nine Ohio Medicaid recipients during the examination period. The Provider's Medicaid number is 2223230 and received reimbursement of \$294,385.32 for 1,949 private duty nursing services (procedure code T1000) provided on 671 unique dates of services. The Provider billed 1,949 of these services with an HQ modifier, indicating that these were services provided in a group setting.

### Purpose, Scope, and Methodology

The purpose of this examination was to determine whether the Provider's claims for reimbursement complied with Ohio Medicaid regulations. The scope of the engagement was limited to an examination of private duty nursing services (procedure code T1000) the Provider rendered during the period of January 1, 2012 through December 31, 2014 and received payment from Ohio's Medicaid program. Please note that all rules and code sections relied upon in this report were those in effect during the examination period and may be different from those currently in effect.

We received the Provider's claims history from the Medicaid Information Technology System (MITS). We removed all services with a paid amount of zero. Prior to selecting services for this examination, we removed eleven services associated with overpayments previously identified by ODM. From the remaining population, we extracted all dates of service (DOS) in which the Provider billed more than 143 units to determine if any of these services were duplicate billings due to the number of units billed on each date. This resulted in an exception test of 27 services rendered on five dates of service (Exception Test).

After removing the services in the exception test, we used a statistical sampling approach to facilitate a timely and efficient examination of the Provider's services as permitted by Ohio Admin. Code § 5160-1-27(B)(1). We stratified the services by DOS into four strata using the original standard deviation and a 32 percent error rate. The final calculated sample size is shown in Table 1.

**Purpose, Scope, and Methodology (continued)**

<b>Table 1: Statistical Sample</b>		
<b>Universe/Strata</b>	<b>Population</b>	<b>Sample</b>
Strata 1: DOS Paid Less Than \$151.00	1	1
Strata 2: DOS Paid Less Than \$302.00	76	30
Strata 3: DOS Paid Less Than \$453.00	583	84
Strata 4: DOS Paid \$453.00 and over	6	6
<b>Total DOS:</b>	666	121

We then obtained the detail services for the 121 sampled DOS. This resulted in a sample size of 333 services.

An engagement letter was sent to the Provider setting forth the purpose and scope of the examination. An entrance conference was held with the Provider during which the Provider described her documentation practices, procedures for obtaining plans of care and all services plans and process for submitting billing to the Ohio Medicaid program. Our field work was performed following the entrance conference. We sent a missing records list and a final request for information to the Provider and we reviewed all documentation received for compliance.

**Results**

*Exception Test – Dates of Service with 143 or More Units*

We examined 27 services on five dates in which the Provider billed 143 or more units and found 12 errors. As a result, we identified \$1,809.72 as an overpayment.

*Statistical Sample – Private Duty Nursing Services*

We examined 333 private duty nursing services and found 48 errors. As a result, we identified \$1,357.29 as an overpayment.

While certain services had more than one error, only one finding was made per service. The non-compliance found and the basis for our finding is described below in more detail.

**A. Provider Qualifications & Supervision**

According to Ohio Admin. Code § 5160-12-02(A)<sup>2</sup>, private duty nursing requires the skills of and is performed by either an registered nurse (RN) or a licensed practical nurse (LPN) at the direction of an RN.

<sup>2</sup> Except as noted, the rules noted in the results section are the numbers effective beginning October 1, 2013. Prior to that time the rules were within the Department of Job and Family Services rules but were renumbered per Section 323.10.70 of Am. Sub. H. B. 59 of the 130th General Assembly to reflect the transfer of the Office of Medical Assistance to the ODM.



### **A. Provider Qualifications & Supervision (Continued)**

We verified through the Ohio e-License Center that the Provider and her supervising RN were licensed through the Ohio Board of Nursing as an LPN and RN, respectively, and that all licenses were in active status during our examination period.

### **B. Service Documentation**

According to Ohio Admin. Code § 5160-12-02, private duty nurses are required to comply with Ohio Admin. Code § 5160-12-03, which requires documentation on all aspects of services provided including time keeping records that indicate the date and time span of the services provided during a visit and type of service that was provided.

#### *Exception Test – Dates of Service with 143 or More Units*

We found 12 services in which there was no service documentation. These 12 errors are included in the overpayment of \$1,809.72.

#### *Statistical Sample – Private Duty Nursing Services*

We found two services in which there was no service documentation, two services that were missing a description of the service rendered and one service in which the documentation was missing the recipient name and time span of service. These five errors are included in the overpayment of \$1,357.29.

### **Recommendation:**

The Provider should ensure that units billed are supported by time keeping records and that it bills accurately for services rendered. The Provider should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

### **C. Service Authorization**

#### *Plan of Care*

According to Ohio Admin. Code § 5160-12-02(B)(2) private duty nursing services must be provided and documented in accordance with the recipient's plan of care.

Providers of private duty nursing are required to implement policy components for private duty nursing as specified in the "Medicare Benefit Policy Manual, Chapter Seven, section 30.2 to 30.3 See Ohio Admin. Code § 5160-12-03(B)(3)(b) CMS Medicare Benefits Policy Manual Chapter 7, 30.2.2 states services that are provided in the subsequent 60-day episode certification period are considered provided under the plan of care of the subsequent 60-day episode where there is an oral order before the services provided in the subsequent period are furnished and the order is reflected in the medical record. However, services that are provided after the expiration of a plan of care, but before the acquisition of an oral order or a signed plan of care are not considered provided under a plan of care

#### *All Services Plans / Individual Service Plan*

Ohio Admin. Code § 5160-46-04(A)(4)(f) states that the Provider must be identified on the recipient's all services plan and have specified the number of hours for which the provider is authorized to furnish waiver nursing services to the recipient. Ohio Admin. Code § 5160-12-02.3(A)(1) states that a provider shall submit a referral for private duty nursing authorization to the Ohio Department of Job and Family Services on the Job and Family Services form 02374.

**C. Service Authorization (Continued)**

Although private duty nursing services (T1000) are required to have ODM Form 02374 for non-waiver services, we did not determine if each recipient in our examination received state plan services, waiver services or both state plan and waiver services. For this examination we only tested authorization if services via plans of care, all service plans or individual service plans.

*Exception Test – Dates of Service with 143 or More Units*

We found no errors.

*Statistical Sample – Private Duty Nursing Services*

We found four services in which the plan of care was not signed by the recipient's treating physician prior to submitting the claim for reimbursement. These four errors are included in the overpayment of \$1,357.29.

In addition, we noted one date of service in which the plan care did not indicate the frequency of services and 35 services in which the plan of care did not authorize the private duty nursing service; however, the services were authorized on the recipient's All Services Plan. We also noted two services in which there was no all services plan to cover the service but there was a plan of care to cover the service dates. We noted no overpayment for these 35 errors.

**Recommendation:**

The Provider should verify that the plan of care indicates includes scope, frequency and duration. In addition, the Provider should ensure authorization on all recipients' ASPs, prior to rendering services. The Provider should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

**Provider Response**

The Provider was afforded an opportunity to respond to this examination report. The Provider declined an exit conference to discuss the results of this examination and also declined to submit an official response to the results noted above.



# Dave Yost • Auditor of State

**MELODI GROSS**

**ASHTABULA 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  
MAY 11, 2017**