



Dave Yost • Auditor of State

**GARDENIA HOME HEALTH CARE, LLC
FRANKLIN COUNTY**

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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS OF THE MEDICAID PROGRAM APPLICABLE TO HOME HEALTH AND WAIVER SERVICES

Ohio Department of Medicaid
50 West Town Street, Suite 400
Columbus, Ohio 43215

RE: Gardenia Home Health Care, LLC
Ohio Medicaid # 3094977

We have examined Gardenia Home Health Care, LLC's (the Provider) compliance with specified Medicaid requirements for provider qualifications, service authorization and service documentation related to the provision of skilled nursing, home health aide, physical therapy, waiver nursing and personal care aide services during the period of January 1, 2013 through December 31, 2015.

The Provider entered into an agreement (the Provider Agreement) with the Ohio Department of Medicaid (ODM) to provide services to Medicaid recipients and to adhere to the terms of the agreement, state statutes and rules and federal statutes and rules, including the duty to maintain records supporting claims for reimbursement made by Ohio Medicaid. Management of Gardenia Home Health Care, LLC is responsible for its compliance with the specified requirements. 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 our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Provider complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether the Provider complied with the specified requirements. The nature, timing and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our modified opinion. Our examination does not provide a legal determination on the Provider's compliance with the specified requirements.

Internal Control Over Compliance

The Provider is responsible for establishing and maintaining effective internal control over compliance with the Medicaid requirements. 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 Provider submitted claims for nursing, home health aide and physical therapy services for reimbursement prior to obtaining signed plans of care, provided personal care aide services by aides that did not meet the first aid requirement and rendered physical therapy services without a plan of care.

Gardenia Home Health Care, LLC
Independent Auditor's Report on
Compliance with Requirements of the Medicaid Program

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 for the period of January 1, 2013 through December 31, 2015.

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, 2013 and December 31, 2015 in the amount of \$900,669.20. This finding plus interest in the amount of \$78,395.23 (calculated as of March 13, 2018) totaling \$979,064.43 is due and payable to the ODM upon its adoption and adjudication of this examination report. Services billed to and reimbursed by the ODM, which are not validated in the records, are subject to recoupment through the audit process. See Ohio Admin. Code § 5160-1-27. In addition, if waste and abuse¹ are suspected or apparent, the ODM and/or the office of the attorney general will take action to gain compliance and recoup inappropriate or excess payments in accordance with rule 5160-1-27 or 5160-26-06 of the Administrative Code.

This report is intended solely for the information and use of the Provider, the ODM, and other regulatory and oversight bodies, and is not intended to be, and should not be used by anyone other than these specified parties.



Dave Yost
Auditor of State

March 13, 2018

¹ "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 § 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)

Ohio Medicaid recipients may be eligible to receive home health services, waiver services or both. According to Ohio Admin Code § 5160-12-01(E), the only provider of home health services is a Medicare certified home health agency (MCRHHA) that meets the requirements in accordance with Ohio Admin. Code § 5160-12-03. Waiver services can be provided by a MCRHHA, an otherwise-accredited home health agency or a non-agency nurse or personal care aide.

The Provider is a MCRHHA and received reimbursement of \$5,811,730 for 117,854 home health and waiver services provided during the examination period including the following:

- 547 physical therapy services (procedure code G0151);
- 87 occupational therapy services (procedure code G0152);
- 20,002 skilled nursing services (procedure code G0154);
- 78,856 home health aide services (procedure code G0156);
- 581 private duty nursing services (procedure code T1000);
- 92 nursing assessment/evaluation (procedure code T1001);
- 606 waiver nursing services (procedure codes T1002 and T1003); and
- 17,083 personal care services (procedure code T1019).

The Provider has two additional active Medicaid provider numbers: 0051800 and 3113302. There were no fee-for-service payments made to either of these provider numbers during the examination period.

Purpose, Scope, and Methodology

The purpose of this examination was to determine whether the Provider's Medicaid claims for reimbursement complied with Ohio Medicaid regulations. 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.

The scope of the examination was limited to home health and waiver services, specifically skilled nursing, home health aide, physical therapy, waiver nursing and personal care aide services that the Provider rendered to Medicaid recipients during the period of January 1, 2013 through December 31, 2015 and received payment.

Purpose, Scope, and Methodology (Continued)

We received the Provider's claims history from the Medicaid database of services billed to and paid by Ohio's Medicaid program. We removed services paid at zero. We then also removed nursing assessment/evaluation, occupational therapy and private duty nursing services as well as all other services for a recipient on the same day as a private duty nursing service.

From the remaining population, we extracted all 547 physical therapy services. We calculated a sample size using a confidence level of 95 percent; an estimated error rate of zero percent; and a tolerable error rate of five percent. An Attribute Beta Risk calculator was used to calculate the resulting required sample size and a random sample of 55 services was selected.

The remaining population included skilled nursing, home health aide, waiver nursing and personal care aide services. We summarized this population by recipient date of service (RDOS). An RDOS is defined as all services for a given recipient on a specific date of service. A stratified random sample was pulled from this population to facilitate a timely and efficient examination of the Provider's services as permitted by Ohio Admin. Code § 5160-1-27(B)(1).

Specifically, we stratified the services by RDOS into three strata using a modified cumulative frequency square root method (Dalenius-Hodge Rule)², the standard deviation of the actual amount paid per claim and an estimated error rate. We used the U.S. Department of Health and Human Services/Office of Inspector General's (HHS/OIG) RATSTATS³ statistical program to calculate the overall sample size. The final sample sizes are shown in the table below.

Universe/Strata	Population Size (RDOS)	Sample Size (RDOS)
RDOS Paid at \$59.99 and Below	33,207	171
RDOS Paid Between \$60 and \$99.99	24,891	304
RDOS Paid \$100 and Over	11,130	209
Total	69,228	684

We then obtained the detailed services for the 684 RDOS which resulted in a sample of 1,350 services. Due to the different underlying requirements of these services, we performed a post-stratification and split this initial sample into three separate samples as follows:

- Home health aide services (G0156) – with sample of 512 RDOS;
- Nursing services (G0154 and T1002) – with sample of 159 RDOS; and
- Personal care services (T1019) with sample of 148 RDOS.

Due to this post-stratification, the number of RDOS is higher than the original count because some RDOS included more than one type of service.

² Sampling of Populations: Methods and Applications 3rd Ed. by P.S. Levy and S. Lemeshow, Wiley Series in Probability and Statistics, pp. 179-183

³ RAT-STATS is a free statistical software package that providers can download to assist in a claims review. The package, created by OIG in the late 1970s, is also the primary statistical tool for OIG's Office of Audit Services.

Purpose, Scope, and Methodology (Continued)

A notification letter was sent to the Provider setting forth the purpose and scope of the examination. During the entrance conference, the Provider described its documentation practices and process for submitting billing to the Ohio Medicaid program. We reviewed all documentation submitted by the Provider for compliance.

Results

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

Physical Therapy Sample

We examined 55 services and identified 14 instances of non-compliance. We identified an improper payment of \$979.16 for these 14 errors.

Nursing Sample

We examined 223 nursing services and found 44 instances of non-compliance. We identified an improper payment of \$2,302.04 for these 44 errors.

Home Health Aide Sample

The overpayments identified for 119 of 512 RDOS (195 of 877 services) from our stratified statistical random sample were projected across the Provider's total population of paid home health aide services. This resulted in a projected overpayment amount of \$711,812 with a precision of plus or minus \$125,617 at the 95 percent confidence level. Since the precision percentage achieved was greater than our procedures require for use of a point estimate, the results were re-stated as a single tailed lower limit estimate (equivalent to methods used in Medicare audits), and a finding was made for \$606,391. This allows us to say that we are 95 percent certain that the population overpayment amount is at least \$606,391. A detailed summary of our statistical sample and projection results is presented in **Appendix I**.

Personal Care Aide Sample

The overpayments identified for 73 of 148 RDOS (132 of 250 services) from our stratified statistical random sample were projected across the Provider's total population of paid personal care aide services. This resulted in a projected overpayment amount of \$359,063 with a precision of plus or minus \$82,743 at the 95 percent confidence level. Since the precision percentage achieved was greater than our procedures require for use of a point estimate, the results were re-stated as a single tailed lower limit estimate (equivalent to methods used in Medicare audits). Additional corrections were then done for skewness in strata one and a final finding was made for \$290,997. This allows us to say that we are 95 percent certain that the population overpayment amount is at least \$290,997. A detailed summary of our statistical sample and projection results is presented in **Appendix II**.

Provider Qualifications

Nurse, Physical Therapist and Physical Therapy Assistant

According to Ohio Admin. Code §§ 5160-12-01(G), 5160-46-04(A), 5123:2-9-59(C), and 5160-50-04(A)⁴, home health and waiver nursing requires the skills of and is performed by either a registered nurse or a licensed practical nurse at the direction of a registered nurse.

Skilled therapy providers include licensed physical therapists and licensed physical therapy assistants, under the direction of a physical therapist, who are contracted or employed by a MCRHHA. Ohio Admin. Code 5160-12-01(G)(3)

We identified the 23 nurses, two physical therapists and seven physical therapy assistants who rendered services in our samples and verified via the Ohio e-License Center website that their professional licenses were current and valid on the applicable dates of service in the samples. We also noted that service documentation completed by the physical therapy assistant included the additional signature of a licensed physical therapist.

We found no errors.

Home Health Aide

We did not examine provider qualifications for home health aides.

Personal Care Aide

In order to submit a claim for reimbursement, all individuals providing personal care aide services must obtain and maintain first aid certification from a class this is not solely internet-based and that includes hands-on training by a certified first aid instructor and a successful return demonstration of what was learned in the course. See Ohio Admin. Code §§ 5160-46-04(B), 5123:2-9-56(C) and 5160-50-04(B)

We reviewed personnel records for the 32 personal care aides who rendered services in the statistical sample for evidence of first aid certification. We obtained the hire and termination dates from the Provider but determined that this information was not reliable as we found services rendered by some of the aides prior to the reported dates of hire. We then determined the first and last date of service each personal care aide rendered in our sample and compared those dates with the effective dates of first aid certification.

Of the 250 personal care aide services in the sample, we found 131 services (52 percent) were rendered by a personal care aide who lacked first aid certification on the date of service. These 131 errors were used in the overall projection amount of \$290,997.

Recommendation:

The Provider should improve its internal controls to ensure all personnel meet applicable requirements prior to rendering direct care services and maintain appropriate documentation to demonstrate that all requirements have been met. The Provider should address the identified issue to ensure compliance with Medicaid rules and avoid future findings.

⁴ Per Section 323.10.70 of Am. Sub. H. B. 59 of the 130th General Assembly, the Legislative Services Commission renumbered the rules of the Office of Medical Assistance within the Department of Job and Family services to reflect its transfer to ODM. The renumbering became effective on October 1, 2013.

B. Authorization to Provide Services

All home health providers are required by Ohio Admin. Code § 5160-12-03(B)(3)(b) to create a plan of care for recipients, including recipients' medical condition and treatment plans anticipated by provider. The plan of care is also required to be signed by the treating physician of the recipient. Home health providers must obtain the completed, signed and dated plan of care prior to billing the ODM for the service. In addition, Ohio Admin. Code §§ 5160-46-04(A)(4), 5123:2-9-56(B)(9) and 5160-50-04(A)(4) requires the Provider to be identified on the plan of care and states the plan of care must be signed and dated by the treating physician prior to requesting reimbursement.

Physical Therapy Sample

We examined 55 services and identified the following errors:

- 7 services submitted for reimbursement prior to the date the physician signed the plan of care;
- 5 services in which the plan of care did not authorize physical therapy; and
- 2 services in which there was no plan of care.

These 14 errors resulted in improper payment amount of \$979.16

Nursing Sample

We examined 223 nursing services and identified the following errors:

- 31 services submitted for reimbursement prior to the date the physician signed the plan of care;
- 7 services in which there was no plan of care;
- 4 services in which the plan of care was not signed by a physician; and
- 2 services in which the documented activity (respite nursing) was not authorized on the plan of care.

These 44 errors are included in the improper payment amount of \$2,302.04

Home Health Aide Sample

We examined 877 home health aide services and found the following errors:

- 159 services submitted for reimbursement prior to the date the physician signed the plan of care;
- 16 services in which the plan of care was not signed by a physician; and
- 17 services in which there was no plan of care.

These 192 errors were used in the overall projection amount of \$606,391.

Personal Care Aide Sample

We did not test service authorization (all service plans) for personal care aide services.

The Provider described that it routinely sent the physician a written order to authorize recertification assessment and treatment until the next plan of care was received, however; this form did not include reference to specific services. In addition, the Medicaid rules do not include a provision for written orders.

B. Authorization to Provide Services (Continued)

We noted instances in which the signed plan of care was not obtained in a timely manner with some plans not being signed until after the end of the certification period. And, in some of these instances, the physician noted changes in medication orders which increase the risk that a medication error could have occurred. We noted one instance in which the physician documented refusal to sign the plan of care because the recipient had not had a recent office visit. The Provider indicated it believed obtaining the written order was sufficient to bill for services. The Provider's practices raise concerns regarding the quality of care and appropriateness of the services being provided.

Recommendation:

The Provider should establish a system to obtain the required plans of care completed by an authorized treating physician and to ensure the signed plans of care are obtained prior to submitting claims for reimbursement to the ODM. The Provider should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

C. Service Documentation

The MCRHHA must maintain documentation of home health services provided that includes, but is not limited to, clinical records, time keeping records that indicate the date and time span of the service and the type of service provided. See Ohio Admin. Code § 5160-12-03

According to Ohio Admin. Code § 5160-45-10(A), providers of waiver services must maintain and retain all required documentation including, but not limited to, documentation of tasks performed or not performed, arrival and departure times and the dated signatures of the provider and the recipient or authorized representative verifying the service delivery upon completion of service delivery.

Physical Therapy Sample

We found no errors.

Nursing Sample

We found no errors.

Home Health Aide Sample

We examined 877 services and found three services for which there was no supporting documentation.

These three errors were used in the overall projection amount of \$606,391.

Personal Care Aide Sample

We examined 250 personal care aide services and found one service in which the documentation did not include tasks performed or not performed.

This one error was used in the overall projection amount of \$290,997.

C. Service Documentation (Continued)

Recommendation:

The Provider should develop and implement procedures to ensure that all service documentation fully complies with requirements contained in Ohio Medicaid rules. In addition, the Provider should implement a quality review process to ensure that documentation is complete and accurate prior to submitting claims for reimbursement. The Provider should address the identified issues to ensure compliance with Medicaid rules and avoid future findings.

Official Response

The Provider submitted an official response to the results of this examination which is presented in **Appendix III**. We did not examine the Provider's response and, accordingly, we express no opinion on it.

APPENDIX I

Summary of Sample Record Analysis – Home Health Aide Sample

POPULATION

The population is all paid Medicaid home health aide services (G0156) less certain excluded services, net of any adjustments where the service was performed during the examination period and payment was made by the ODM.

SAMPLING FRAME

The sampling frame for this sample is paid and processed claims from MITS. This system contains all Medicaid payments and all adjustments made to Medicaid payments by the State of Ohio.

SAMPLE UNIT

The primary sampling unit was a recipient date of service (RDOS).

SAMPLE DESIGN

We used a stratified random sample.

Description	Results
Number of RDOS in Population	54,039
Number of RDOS Sampled	512
Number of Services in Population	78,856
Number of Services Sampled	877
Number of Services Sampled with Error	195
Total Medicaid Amount Paid for Population	\$3,542,893.55
Amount Paid for Services Sampled	\$41,935.26
Estimated Overpayment (Point Estimate)	\$711,812
Precision of Overpayment Estimate at 95% Confidence Level	\$125,617 (17.7%)
Precision of Overpayment Estimate at 90% Confidence Level	\$105,421 (14.8%)
Single-tailed Lower Limit Overpayment Estimate at 95% Confidence Level (Calculated by subtracting the 90 percent overpayment precision from the point estimate) (Equivalent to the estimate used for Medicare Audits)	\$606,391

Source: AOS analysis of MITS information and the Provider's records.

Appendix II

Summary of Sample Record Analysis – Personal Care Aide Sample

POPULATION

The population is all paid Medicaid personal care aide services (T1019) less certain excluded services, net of any adjustments where the service was performed during the examination period and payment was made by the ODM.

SAMPLING FRAME

The sampling frame for this sample is paid and processed claims from MITS. This system contains all Medicaid payments and all adjustments made to Medicaid payments by the State of Ohio.

SAMPLE UNIT

The primary sampling unit was a recipient date of service (RDOS).

SAMPLE DESIGN

We used a stratified random sample.

Description	Results
Number of RDOS in Population	10,043
Number of RDOS Sampled	148
Number of Services in Population	16,436
Number of Services Sampled	250
Number of Services Sampled With Errors	132
Total Medicaid Amount Paid for Population	\$939,010.84
Amount Paid for Services Sampled	\$15,001.12
Estimated Overpayment (Point Estimate)	\$359,063
Precision of Overpayment Estimate at 95% Confidence Level	\$82,743
Precision of Overpayment Estimate at 90% Confidence Level	\$69,440
Single-tailed Lower Limit Overpayment Estimate at 95% Confidence Level (Calculated by subtracting the 90 percent overpayment precision from the point estimate) (Equivalent to the estimate used for Medicare Audits) Note: lower limit precision was expanded due to skewness to \$290,977. ¹	\$290,997

Source: AOS analysis of MITS information and the Provider's records.

¹The adjustment was done using the method described in "Sampling Methods For The Auditor, An Advanced Treatment" by Herbert Arkin. This technique made use of tables provided by E.S. Pearson and H.O. Hartley, Biometrika Tables for Statisticians, Volume 1 3rd Ed., Cambridge University Press, New York, 1969, table 42.

Gardenia Home Health Care, LLC

Dave Yost Auditor's Office
88 East Broad Street, Ninth Floor
Columbus, OH 43215-3506

To Whom It May Concern:

Gardenia Home Health Care, LLC is an owner-operated business and as such, we have invested our time, resources and knowledge to providing quality home care services to our clients for the past almost nine (9) years that we have been operational. We would never intentionally or otherwise risk compromising the safety of our clients given that as owners we are heavily involved in the day to day operation of the agency.

On February 2017, The Auditor's office began an audit of our patient and employee records. In response to the audit findings, Gardenia Home Health asserts that the auditor's penalty seems to be disproportionate to the auditor's findings.

Gardenia Home Health Care, LLC wishes to emphasize that it has provided excellent care to its clients with no reported adverse effects. During this time, the agency has been audited numerous times and has been found compliant with the rules and regulations of Passport, Franklin County Board of Department of Developmental Disabilities, Senior Options, Medicare, and Carestar. Subsequent to those audits we have never been cited or otherwise indicated that we have been in violation of any regulations or rules of operation. Therefore, we have had every reason to believe that we have complied in providing care to our clients. We have relied on and continue to trust the assessments of the Medicaid surveyors who perform the scheduled or unscheduled audits. Additionally, all past citations noted during an audit were addressed in plan of corrections which were timely submitted and accepted.

One of our governing practices is and has always been to educate managers and employees on Ohio home care rules, regulations and guidelines. We have strived to abide by all rules and regulation and would not knowingly jeopardize patient care or the Agency's standing with all regulatory bodies including the Department of Medicaid.

We make every effort to recruit, educate and monitor the performance of staff to ensure that our Agency provides patient-focused, outcome based quality care. We recognize the importance of ensuring that employees are fully trained and credentialed; to the best of our knowledge all employees where compliant.

We believe that if the penalties are enforced we will no longer be able to sustain a viable home care business, and most importantly, the local health care community and our patients would be deprived of the critical/important care we provide them.

Gardenia Home Health Care, LLC hopes to continue providing exemplary care to our clients and all matters pointed out in the audit have been rectified.

Respectfully,

The Family of Gardenia Home Health Care



Dave Yost • Auditor of State

GARDENIA HOME HEALTH CARE LLC

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
APRIL 19, 2018**