NEW YORK STATE | Office of the Medicaid Inspector General

ERIN E. IVES
Acting Medicaid Inspector General

Audit of Claims for Office of Mental Health Community Rehabilitation Services for Adults

Final Audit Report
Audit #: 20-2871

Liberty Resources, Inc.

Provider ID #: 02994810

NEW YORK STATE | Office of the Medicaid Inspector General

ANDREW M. CUOMO
Governor

ERIN E. IVES
Acting Medicaid Inspector General

January 5, 2021

[redacted]
Liberty Resources, Inc.
1045 James Street
Syracuse, New York 13202

Re: Final Audit Report
Audit #: 20-2871
Provider ID #: 02994810

Dear [redacted]

This is the Office of the Medicaid Inspector General's (OMIG) Final Audit Report for Liberty Resources, Inc. (Provider).

In accordance with Sections 30, 31 and 32 of the New York State Public Health Law, and Title 18 of the Official Compilation of the Codes, Rules and Regulations of the State of New York (NYCRR) Parts 504 and 517, OMIG performed an audit of Office of Mental Health Community Rehabilitiation Services for Adults claims paid to the Provider from January 1, 2015, through December 31, 2017. The audit universe consisted of 549 claims totaling $1,339,263.10. The audit consisted of a random sample of 100 claims with Medicaid payments totaling $238,581.53 (Attachment A).

The Provider's December 29, 2020 response to OMIG's November 17, 2020 Draft Audit Report stated that the Provider is in agreement with the Draft Audit Report findings. OMIG has attached the sample detail for the paid claims determined to be in error. The adjusted point estimate overpaid is $74,794. The adjusted lower confidence limit of the amount overpaid is $33,391. We are 95% certain that the actual amount of the overpayment is greater than the lower confidence limit. This audit may be settled through repayment of the adjusted lower confidence limit of $33,391.

If you have any questions or comments concerning this report, please contact [redacted] or through email at [redacted] Please refer to audit number 20-2871 in all correspondence.

[redacted]
Division of Medicaid Audit
Office of the Medicaid Inspector General

Attachments
Certified Mail Number: 7011-2970-0002-2621-2583
Return Receipt Requested

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Background, Objective, and Audit Scope

Background

The New York State Department of Health (DOH) is the single state agency responsible for the administration of the Medicaid program. As part of its responsibility as an independent entity within DOH, the Office of the Medicaid Inspector General (OMIG) conducts audits and reviews of various providers of Medicaid reimbursable services, equipment and supplies. These audits and reviews are directed at assessing provider compliance with applicable laws, regulations, rules and policies of the Medicaid program as set forth in New York Public Health Law, New York Social Services Law, the regulations of DOH (Titles 10 and 18 of the New York Codes Rules and Regulations), the regulations of the Office of Mental Hygiene (Title 14 of the New York Codes Rules and Regulations), the regulations of the Education Department (Title 8 of the New York Codes Rules and Regulations), DOH's Medicaid Provider Manuals and *Medicaid Update* publications.

Reimbursement under the Medicaid Program is available for OMH community rehabilitation services for adults provided by residential programs that are licensed in accordance with the provisions of Article 31 of the Mental Hygiene Law. Residential programs primarily have a rehabilitative focus and provide an array of rehabilitative and supportive services to individuals diagnosed with severe and persistent mental illness. The purpose of these programs is to provide varied services which support and assist individuals with their goal of integration into the community. The specific standards and criteria for OMH community rehabilitation services for adults within residential programs are outlined in Title 14 NYCRR Parts 593 and 595. The *Office of Mental Health Rehabilitation in Community Residences, Policy Guidelines* also provides program guidance in claiming Medicaid reimbursement for OMH community rehabilitation services for adults.

Objective

The objective of this audit was to assess Liberty Resources, Inc.'s (Provider) adherence to applicable laws, regulations, rules and policies governing the New York State Medicaid program and to verify that:

- Medicaid reimbursable services were rendered for the dates billed;
- appropriate rate codes were billed for services rendered;
- resident related records contained the documentation required by the regulations; and,
- claims for payment were submitted in accordance with applicable rules and requirements.

Audit Scope

A review of office of mental health community rehabilitation services for adults claims paid to the Provider by Medicaid for payment dates included in the period beginning January 1, 2015, and ending December 31, 2017, was completed.

The audit universe consisted of 549 claims totaling $1,339,263.10. The audit sample consisted of 100 claims totaling $238,581.53 (Attachment A).

Regulations of General Application

Each audit finding is supported by relevant regulations, policy statements and manuals. In addition, the audit findings in this audit are supported by regulations of general application to the Medicaid program. These regulations are provided below.

"By enrolling the provider agrees: (a) to prepare and to maintain contemporaneous records demonstrating its right to receive payment . . . and to keep for a period of six years from the date the care, services or supplies were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider . . . (e) to submit claims for payment only for services actually furnished and which were medically necessary or otherwise authorized under the Social Services Law when furnished and which were provided to eligible persons; (f) to submit claims on officially authorized claim forms in the manner specified by the department in conformance with the standards and procedures for claims submission; . . . (h) that the information provided in relation to any claim for payment shall be true, accurate and complete; and (i) to comply with the rules, regulations and official directives of the department." *18 NYCRR Section 504.3*

"Fee-for-service providers. (1) All providers ... must prepare and maintain contemporaneous records demonstrating their right to receive payment under the medical assistance program. All records necessary to disclose the nature and extent of services furnished and the medical necessity therefor ... must be kept by the provider for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later. (2) All information regarding claims for payment submitted by or on behalf of the provider is subject to audit for a period of six years from the date the care, services or supplies were furnished or billed, whichever is later, and must be furnished, upon request, to the department ... for audit and review." *18 NYCRR Section 517.3(b)*

"All bills for medical care, services and supplies shall contain: (1) patient name, case number and date of service; (2) itemization of the volume and specific types of care, services and supplies provided (including for a physician, his final diagnosis, and for drugs, the prescription filled); (3) the unit price and total cost of the care, services and supplies provided; . . . and (8) a dated certification by the provider that the care, services and supplies itemized have in fact been furnished; that the amounts listed are due and owing; . . . that such records as are necessary to disclose fully the extent of care, services and supplies provided to individuals under the New York State Medicaid program will be kept for a period of not less than six years from the date of payment; . . . and that the provider understands that payment and satisfaction of this claim will be from Federal, State and local public funds and that he or she may be prosecuted under applicable Federal and State laws for any false claims, statements or documents, or concealment of a material fact provided...." *18 NYCRR Section 540.7(a)(1)-(3) and (8)*

"An overpayment includes any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse or mistake." *18 NYCRR Section 518.1(c)*

"Vendor payments for medical care and other items of medical assistance shall not be made unless such care or other items of assistance have been furnished on the basis of the appropriate authorization prescribed by the rules of the board and regulations of the department."

18 NYCRR Section 540.1

"The department may require repayment from the person submitting an incorrect or improper claim, or the person causing such claim to be submitted, or the person receiving payment for the claim."
18 NYCRR Section 518.3(a)

"The department may require repayment for inappropriate, improper, unnecessary or excessive care, services or supplies from the person furnishing them, or the person under whose supervision they were furnished, or the person causing them to be furnished...." *18 NYCRR Section 518.3(b)*

"Medical care, services or supplies ordered or prescribed will be considered excessive or not medically necessary unless the medical basis and specific need for them are fully and properly documented in the client's medical record." 18 NYCRR Section 518.3(b)

Audit Findings

OMIG issued a Draft Audit Report to the Provider on November 17, 2020. The Provider's December 29, 2020 response to the Draft Audit Report stated that the Provider is in agreement with the Draft Audit Report findings. As a result, the total sample overpayment of $16,754.13 remains unchanged from the sample overpayment cited in the Draft Audit Report. A description of each finding, regulations, and the list of samples supporting each finding, appear below. Each sample may contain more than one error, and may be listed in more than one category of finding. A sample may only be disallowed once in an audit, however, each sample is subject to disallowance based on a single error.

Summary of Audit Findings

Error Description	Number of Errors
Rehabilitation Service Provided Not Included in Service Plan	3
Service Plan/Service Plan Review Not Reviewed and Signed by Qualified Mental Health Staff Person (QMHSP)	2
Failure to Document Four Different Rehabilitation Services for a Full Month Claim	2
Missing Initial Physician Authorization	1
Missing Service Plan/Service Plan Review	1
Missing Documentation of Rehabilitation Service	1

Audit Findings Detail

OMIG's review of Medicaid claims paid to the Provider from January 1, 2015, through December 31, 2017, identified 10 claims with at least one error, for a total sample overpayment of $16,754.13 (Attachment C).

1. Rehabilitation Service Provided Not Included in Service Plan

"For reimbursement purposes, a contact shall involve the performance of at least one of the services indicated in the resident's current service plan."

14 NYCRR Section 593.7(b)(4)

"...The individualized written service plan shall be a mutually agreed upon plan which, at a minimum, identifies the following:...(5) identification of the services to be provided."

14 NYCRR Section 595.11(b)(5)

"A written service plan for each client in any Licensed Residential/Housing Program is required. This plan should state the needs, goals and objectives, specific services needed, and identify the staff responsible for providing and overseeing services for the client."

Office of Mental Health Rehabilitation In Community Residences, Policy Guidelines, Version 2006-1, Section I

In 3 instances pertaining to 3 residents, the community rehabilitation services provided were not specified on the service plan. This finding applies to Sample #s 6, 61 and 74.

2. Service Plan/Service Plan Review Not Reviewed and Signed by Qualified Mental Health Staff Person (QMHSP)

"Qualified mental health staff person means: "(i) a physician... (ii) a psychologist... (iii) a social worker... (iv) a registered nurse... (v) a creative arts therapist... (vi) a marriage and family therapist... (vii) a mental health counselor... (viii) a psychoanalyst... (ix) a nurse practitioner... (x) an individual having education, experience and demonstrated competence, as defined below: (a) a master's or bachelor's degree in a human services related field; (b) an associate's degree in a human services related field and three years experience in human services; (c) a high school degree and five years experience in human services; or... (xii) other professional disciplines which receive the written approval of the Office of Mental Health."

14 NYCRR Section 595.4(a)(10)

"...The service plan must be reviewed and signed by a qualified mental health staff person...."

14 NYCRR Section 593.6(d)

"...The service plan shall be reviewed and signed by a qualified mental health staff person...."

14 NYCRR Section 595.11(b)

"The service plan shall be reviewed.....(3) review of the service plan and signed approval by a qualified mental health staff person." *14 NYCRR Section 593.6(f)(3)*

"All plans must be reviewed and signed by a Qualified Mental Health Staff person."
Office of Mental Health Rehabilitation In Community Residences, Policy Guidelines, Version 2006-1, Section I

In 1 instance, the service plan or service plan review lacked the required Qualified Mental Health Staff Person signature. This finding applies to Sample # 5.

In 1 instance, the service plan or service plan review was signed by an individual who did not meet the regulatory definition of a Qualified Mental Health Staff Person. This finding applies to Sample # 75.

3. Failure to Document Four Different Rehabilitation Services For a Full Month Claim

"Service definitions for programs serving adults.
(1) Assertiveness/self advocacy training...
(2) Community integration...
(3) Daily living skills training...
(4) Health services ...
(5) Medication management and training ...
(6) Parenting training...
(7) Rehabilitation counseling...
(8) Skill development services...
(9) Socialization...
(10) Substance abuse services...
(11) Symptom management..."

14 NYCRR Section 593.4(b)

"Reimbursement will be based upon monthly and half-monthly rates. Such rates shall be paid based upon a minimum number of face-to-face contacts between the eligible resident of a program and a staff person of an approved provider of community rehabilitation services.... (1) A full monthly rate will be paid for services provided to an eligible resident...who has received at least four contacts with a staff person of the program.... At least four different community rehabilitative services must have been provided."

14 NYCRR Section 593.7(b)(1)

"Full month billing requires as a minimum: ...Four different rehabilitation services."
Office of Mental Health Rehabilitation In Community Residences, Policy Guidelines, Version 2006-1, Section III

In 2 instances pertaining to 2 residents, the record did not document four different community rehabilitation services provided in the month claimed. This finding applies to Sample #s 81 and 96.

4. Missing Initial Physician Authorization

"In order to receive reimbursement for the provision of community rehabilitation services to an individual, the provider of service must ensure that the individual has been authorized in writing by a physician, prior to or upon admission, to receive services as provided by the program. The written authorization must be retained as a part of the individual's case record. The physician's authorization must: (1) be based upon appropriate clinical information and assessment of the

individual. The initial authorization must include a face-to-face assessment; (2) delineate the maximum duration of the authorization to receive such services; and (3) specify that the individual is in need of community rehabilitation services as defined in section 593.4(b) of this Part." *14 NYCRR Section 593.6(a)*

"Each client prior to or upon admission into a Licensed Residential/Housing Program (which includes CR, FBT and TFH) must be seen by a licensed physician who makes a determination that services are appropriate and signs a written authorization which is kept on file by the provider."

Office of Mental Health Rehabilitation In Community Residences, Policy Guidelines, Version 2006-1, Section I

In 1 instance, the record did not contain the required initial authorization signed by a physician at the time rehabilitation services were delivered. This finding applies to Sample # 68.

5. Missing Service Plan/Service Plan Review

"Community rehabilitation services shall be provided in accordance with a service plan developed within four weeks of admission to the program."

14 NYCRR Section 593.6(c)

"The service plan shall be reviewed at least every three months with the initial review occurring three months from the date of admission." *14 NYCRR Section 593.6(f)*

"...an individualized written service plan which shall be based upon psychiatric rehabilitation principles of participation and individual resident choice..."

14 NYCRR Section 595.1(b)

"The individualized written service plan shall be reviewed at least once every three months, with the initial review occurring three months from the date of admission..."

14 NYCRR Section 595.11(d)

"Services provided within a residential program... shall be provided in accordance with a service plan developed within four weeks of admission to the program..."

14 NYCRR Section 595.11(a)

"A written service plan for each client in any Licensed Residential/Housing Program is required."

Office of Mental Health Rehabilitation In Community Residences, Policy Guidelines, Version 2006-1, Section I

In 1 instance, the record did not contain a service plan or the required service plan review. This finding applies to Sample # 84.

6. Missing Documentation of Rehabilitation Service

"By enrolling the provider agrees: (a) to prepare and to maintain contemporaneous records demonstrating its right to receive payment under the medical assistance program and to keep for a period of six years . . . all records necessary to disclose the nature and extent of services furnished. . . ." *18 NYCRR Section 504.3(a)*

"There shall be a complete case record maintained for each resident. Such case record shall be maintained in accordance with recognized and acceptable principles of recordkeeping...."
14 NYCRR Section 595.14(a)

"The case record shall... include the following information: ... (8) documentation of the type of service provided, the date it was provided, its duration and the name of the person rendering the service;"
14 NYCRR Section 595.14(b)(8)

"All services and contacts must be recorded for audit purposes."
Office of Mental Health Rehabilitation In Community Residences, Policy Guidelines, Version 2006-1, Section III

In 1 instance, the record did not document that any rehabilitation services were provided. This finding applies to Sample # 97.

Repayment Options

In accordance with 18 NYCRR Part 518, which regulates the collection of overpayments, your repayment options are described below.

Option #1: Make a full payment by check, money order, or OMIG's Online Payment Portal within 20 days of the date of the Final Audit Report.

- The check should be made payable to the New York State Department of Health, should include the audit number on the memo line, and be mailed with the attached remittance advice to:

New York State Office of the Medicaid Inspector General
Bureau of Collections Management
800 North Pearl Street
Albany, New York 12204
[redacted]

- If you elect to pay electronically through OMIG's Online Payment Portal, please visit [redacted] or contact OMIG's Bureau of Collections Management by telephone or email, at the above number or address.

Option #2: Enter into a repayment agreement with OMIG. If your repayment terms exceed 90 days from the date of the Final Audit Report, recoveries of amounts due are subject to interest charges at the prime rate plus 2%. OMIG's acceptance of a repayment agreement is based on your repaying the Medicaid overpayment as agreed. OMIG will adjust the rate of recovery, or require payment in full, if your unpaid balance is not being repaid as agreed. If you wish to enter into a repayment agreement, please contact the Bureau of Collections Management within 20 days, by telephone or email, as provided above.

Should you fail to select a payment option above within 20 days of the date of this Report, OMIG will initiate recoupment by withholding all or a part of your payments otherwise payable, in accordance with 18 NYCRR 518.6. Additionally, OMIG reserves the right to use any remedy allowed by law to collect the amount due. Pursuant to the State Finance Law Section 18(5), a collection fee equal to twenty two percent (22%) of the amount due, including interest, may be added to the amount owed.

Hearing Rights

If you choose not to settle this audit through repayment of the adjusted lower confidence limit, you have the right to challenge these findings by requesting an administrative hearing where OMIG would seek and defend the adjusted point estimate of $74,794. As allowed by state regulations, you must make your request for a hearing, in writing, within sixty (60) days of the date of this report to:

General Counsel
Office of Counsel
New York State Office of the Medicaid Inspector General
800 North Pearl Street
Albany, NY 12204

Questions regarding the request for a hearing should be directed to Office of Counsel, at [redacted].

In accordance with 18 NYCRR Section 519.18(a), "The issues and documentation considered at the hearing are limited to issues directly relating to the final determination. An appellant may not raise issues regarding the methodology used to determine any rate of payment or fee, nor raise any new matter not considered by the department upon submission of objections to a draft audit or notice of proposed agency action."

If a hearing is held, you may have a person represent you or you may represent yourself. If you choose to be represented by someone other than an attorney, you must supply along with your hearing request a signed authorization permitting that person to represent you at the hearing; you may call witnesses and present documentary evidence on your behalf.

For a full listing of hearing rights please see 18 NYCRR Part 519.

Contact Information

Office Address:

New York State
Office of the Medicaid Inspector General
Division of Medicaid Audit
221 South Warren Street, Suite 410
Syracuse, New York 13202

Mission

The mission of the Office of the Medicaid Inspector General is to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting high quality patient care.

Vision

To be the national leader in promoting and protecting the integrity of the Medicaid program.

NEW YORK STATE | Office of the Medicaid Inspector General

REMITTANCE ADVICE

[redacted]
Liberty Resources, Inc.
1045 James Street
Syracuse, New York 13203

Provider ID #: 02994810

Audit #: 20-2871

Amount Due: $33,391.00

Audit Type
- ☐ **Managed Care**
- ☒ **Fee-for-Service**
- ☐ **Rate**

Checklist

1. To ensure proper credit, please enclose this form with your check.
2. Make checks payable to: New York State Department of Health.
3. Record the audit number on your check.
4. Mail the check to:

New York State Office of the Medicaid Inspector General
Bureau of Collections Management
800 North Pearl Street
Albany, New York 12204
[redacted]

If you elect to pay electronically through OMIG's Online Payment Portal, please visit [redacted] or contact OMIG's Bureau of Collections Management by telephone or email, at the above number or address.