



**TODD J. GATES, D.O.
HAINES CITY, FLORIDA**

MEDICAID COMPLIANCE REPORT

FOR THE PERIOD JANUARY 1, 2008 THROUGH DECEMBER 31, 2010



Dave Yost • Auditor of State

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**TODD J. GATES, D.O.
HAINES CITY, FLORIDA**

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Independent Accountant's Report

Todd J. Gates, D.O.
504 Eastlake Drive
Haines City, Florida 33844

RE: Medicaid Provider Number 0668951

Dear Dr. Gates:

We examined Todd J. Gates, D.O. (the Provider) for compliance with Ohio Administrative Code (Ohio Admin. Code) §§ 5101:3-4-06, 5101:3-4-29, and 5101:3-1-17.2 during the period of January 1, 2008 to December 31, 2010. Our examination was performed under our authority in Section 117.10 of the Ohio Revised Code. Dr. Gates 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 198 psychiatric office based services rendered in Lake County and identified four errors relating to non-compliance with those requirements. We found the Provider was overpaid by Ohio Medicaid for services rendered between January 1, 2008 and December 31, 2010 in the amount of \$112.11. This finding, plus interest in the amount of \$18.92 totaling \$131.03, is due and payable to the Office of Medical Assistance (OMA) upon OMA's adoption and adjudication of this examination report.¹ After adjudication by OMA, additional interest may be assessed 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 examination², 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).

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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 Medical Board 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, flowing style with a large initial "D" and a long, sweeping tail.

Dave Yost
Auditor of State

January 23, 2013

Compliance Report for Todd J. Gates, D.O.

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. 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).

AOS 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. In addition, Providers must furnish such records for audit and review purposes. See Ohio Admin. Code § 5101:3-1-17.2(E).

Dr. Gates' Ohio Medicaid Provider Number is 0668951 and he is a doctor of osteopathic medicine located in Haines City, Florida. During the review period, the Provider rendered psychiatric services to Ohio Medicaid recipients through locations in multiple counties including Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Mahoning, Portage and Wayne. The Provider had offices in Mentor, Chagrin, Ashtabula and Willoughby but has since closed all of these offices. During the review period, the Provider traveled from Florida to Ohio to provide services at these various locations. In addition, the Provider works for Signature Health, an agency providing recovery services at multiple locations in northeast Ohio.

The Provider received reimbursement of \$73,078.70 for 1,395 psychiatric services billed during the examination period. Office based services (671 services) accounted for 48 percent of these services and skilled nursing facility based services (724 services) accounted for 52 percent. Of the office based services, 354 services (52.8 percent) had Lake County as the location of service.

Ohio Medicaid recipients may be eligible to receive psychiatric services provided by a physician. Some patients receive only psychotherapy and others receive psychotherapy with medical evaluation and management services. Providers must select and bill the appropriate type of visit in accordance with the current procedural terminology manual. See Ohio Admin. Code § 5101:3-4-06(B). Psychiatric services include diagnostic interview evaluations, consultations, and therapeutic services. According to Ohio Admin. Code § 5101:3-4-29(H), the patient's medical record must substantiate the nature of the services billed including:

- A treatment plan;
- Information regarding patient's symptoms and dates of treatment sessions;
- Any Medications prescribed; and
- The face-to-face time period spent with the patient.

Purpose, Scope, and Methodology

The purpose of this examination was to review Medicaid reimbursements made to the Provider and determine whether the Provider 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 office based psychiatric services provided in Lake County for which the Provider billed Medicaid and received payment during the period of January 1, 2008 to December 31, 2010. The office based services included psychiatric diagnostic interview examination (procedure code 90801), and insight oriented, behavior modifying and/or supportive psychotherapy with evaluation and management services (procedure code 90805 for a 20 to 30 minute face-to-face session and procedure code 90807 for a 45 to 50 minute face-to-face session).

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 excluded denied, third-party and Medicare cross-over claims. We then extracted paid claims for office based procedure codes with a location of service of Lake County, Ohio. The Provider had 354 Lake County services reimbursed for \$19,222.46 during the review period. From this sub-population of claims, we used a cluster random sampling approach (patients as cluster and paid services as elements within a cluster) to facilitate a timely and efficient examination as permitted by Ohio Admin. Code § 5101:3-1-27(B)(1).

We obtained and reviewed service documentation for the identified sample of services. We examined the records to verify that the medical records included treatment plans and complete progress notes. In addition, we verified that the procedure code that was paid matched the information contained on the progress note.

An engagement letter was sent to the Provider on October 11, 2012, setting forth the purpose and scope of the examination. Our fieldwork was performed in November 2012. After conducting our initial review of records, we submitted a compiled list of missing records to the Provider on November 7, 2012. The Provider submitted additional documentation on November 23, 2012, which we also examined.

Results

A sample of 198 psychotherapy services was selected and examined to ensure that there was substantive documentation to support the Medicaid reimbursed service. We found the following four instances of non-compliance which are the basis for our total finding of \$112.11:

- one service lacked documentation to support the service billed;
- one service was billed as diagnostic assessment but the service documentation indicated the service provided was psychotherapy with evaluation and management; and
- one service was billed for 45 to 50 minutes session but the progress note indicates the actual duration of the session was 20 minutes.

We did not project a finding beyond those found in our sample because we do not project findings from a sampling when less than 10 percent of the services examined in the sample have errors and the amount of error found in the sample is less than \$1,000.

Provider Response

A draft report along with a detailed list of services for which we took findings was mailed to the Provider on February 8, 2013, and the Provider was afforded an opportunity to respond to this examination report. The Provider declined to submit an official response to the results noted above.



Dave Yost • Auditor of State

TODD J. GATES, D.O.

LAKE 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
MARCH 12, 2013