State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

OFFICE OF THE STATE COMPTROLLER
MEDICAID FRAUD DIVISION
P.O. BOX 025
TRENTON, NJ 08625-0025
(609) 826-4700

KEVIN D. WALSH
Acting State Comptroller

JOSH LICHTBLAU
Director

January 11, 2021

BY ELECTRONIC MAIL

Ms. Polina Fooks, President
Diabest, Inc.
143-B Smith Street
Perth Amboy, NJ 08861

Re: Audit Letter - Notice of Overpayment: Diabest, Inc.

Dear Ms. Fooks:

As part of its oversight of the Medicaid and New Jersey FamilyCare program (Medicaid), the New Jersey Office of the State Comptroller, Medicaid Fraud Division (MFD) conducted an audit of claims submitted by Diabest, Inc. (Diabest) under National Provider Identification Number [redacted] and Medicaid Provider Numbers [redacted] and [redacted] for the period of July 1, 2014 through June 30, 2019 (audit period). MFD hereby provides you with this Audit Letter.

Executive Summary

MFD conducted this audit to determine whether Diabest billed for Durable Medical Equipment (DME) and supplies in accordance with applicable state and federal laws and regulations. Specifically, MFD sought to determine whether Diabest correctly billed for orthopedic shoes and inserts, compression stockings, incontinence supplies, and other items comprised of automatic blood pressure monitors, tub stools or benches, and nebulizers. MFD found that in the vast majority of claims reviewed, Diabest's supporting documentation satisfied the relevant requirements. Accordingly, for the audit period, MFD is reasonably assured that Diabest's supporting documentation for these types of claims complied with applicable requirements. As explained below, however, MFD did identify a small number of claims where Diabest's documentation did not comply with applicable requirements. Accordingly, MFD is seeking to recover an overpayment for these deficient claims pursuant to *N.J.A.C.* 10-49-9.8(a).

During the audit period, Diabest received $5,294,343 in Medicaid payments from 60,949 claims billed under 178 unique Healthcare Common Procedure Coding System (HCPCS) codes. This audit focused on the top 15 codes billed by Diabest, which comprised over 88 percent of its total Medicaid billings ($4.66 million out of $5.29 million). *See* Exhibit A for a complete list of the top 15 codes and for a corresponding description of each code.

From the top billed codes, MFD statistically selected 170 claims totaling $15,207 for the period between July 1, 2014 and June 30, 2019. From its review of Diabest's supporting documentation for these claims, MFD found that Diabest's documentation for 167 of the 170 claims supported the claims. Diabest's documentation for the remaining three claims, however, did not support the claims billed. Diabest was paid a total of $528 for these improperly billed claims, which constitutes an overpayment that it must repay to the Medicaid program.

In sum, MFD determined that for the claims types reviewed, the documentation supporting the vast majority of Diabest's claims complied with applicable laws and regulations. MFD did find, however, that Diabest improperly billed three claims for which Diabest received Medicaid payments totaling $528. These three improperly billed claims constitute overpayments that Diabest must repay to the Medicaid program. Given MFD's findings, specifically that Diabest's documentation was generally compliant with applicable requirements, MFD intends to close this audit upon receipt of Diabest's payment of the identified overpayment amount, $528.

Background

The New Jersey Department of Human Services, Division of Medical Assistance and Health Services (DMAHS) contracts with five MCOs to administer the provision of health care services to Medicaid recipients in New Jersey. Pursuant to its application to join the Medicaid program and as a provider in one or more MCO networks, Diabest is required to adhere to applicable state and federal laws and regulations, including the provider certification and recordkeeping requirements set forth in *N.J.A.C.* 10:49-9.8. According to *N.J.A.C.* 10:49-9.8 providers must "keep such records as are necessary to disclose fully the extent of services provided." Moreover, *N.J.A.C.* 10:59-1.5 requires providers, at a minimum, to maintain a legible, dated prescription that is signed by the prescribing practitioner and references the diagnosis and item prescribed.

DME is defined by *N.J.A.C.* 10:59-1.2 as "an item or apparatus, other than hearing aids and certain prosthetic and orthotic devices . . . which . . . is primarily and customarily prescribed to serve a medical purpose and is medically necessary . . . is not useful to a beneficiary in the absence of a disease, illness, injury or disability and is capable of withstanding repeated use . . ." According to *N.J.A.C.* 10:55-1.2, an orthotic appliance is a device or a brace used to provide support, increased function, and to overcome physical impairment or defects. Similarly, a prosthetic appliance is a functional replacement, corrective, or supportive device. In general, prosthetics artificially replace a missing

portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body.

Diabest is a medical equipment supply store and durable medical equipment (DME) provider that specializes in respiratory products, orthotics, prosthetics and orthopedics. It was incorporated in 2003 and is located in Perth Amboy, New Jersey. Diabest is licensed by the American Board for Certification in Orthotics, Prosthetics and Pedorthics.

Objective

The objective of the audit was to determine whether claims submitted by and paid to Diabest complied with Medicaid requirements under applicable state and federal laws and regulations.

Audit Scope

The audit scope was July 1, 2014 through June 30, 2019. This audit was conducted pursuant to the authority of the Office of the State Comptroller as set forth in *N.J.S.A.* 52:15C-23 and the *Medicaid Program Integrity and Protection Act*, *N.J.S.A.* 30:4D-53 *et seq*.

Audit Methodology

To achieve the audit objective, MFD identified the universe of claims consisting of Diabest's top 15 HCPCS codes billed during the audit period. The top 15 HCPCS codes were: L3020, L3030, L3216, L3217, L3221, A6530, A6533, A4554, T4526, T4527, T4528, T4535, A4670, E0245, and E0570. From that universe of 50,046 paid claims totaling $4,663,749, MFD selected a statistically valid sample of 170 Medicaid claims totaling $15,207. MFD reviewed records to determine whether Diabest's documentation complied with the requirements of *N.J.A.C.* 10:49-9.8, *N.J.A.C.* 10:49-5.5, *N.J.A.C.* 10:59-1.2, -1.4, -1.5, 1.7.

Audit Findings

MFD reviewed 170 Medicaid claims submitted by and paid to Diabest between July 1, 2014 and June 30, 2019. The 170 claims covered DME and medical supplies comprised of orthopedic shoes and shoe inserts, compression stockings, incontinence supplies, automatic blood pressure monitors, tub stools or benches, and nebulizers. MFD determined that for 167 of the 170 claims reviewed, the supporting documentation for these claims complied with the regulations these claims were tested against, *N.J.A.C.* 10:49-9.8, *N.J.A.C.* 10:49-5.5, *N.J.A.C.* 10:59-1.2, -1.4, -1.5, 1.7.

MFD found, however, that for 3 out the 170 claims, totaling $528 out of $15,207 paid claims sampled, Diabest lacked sufficient documentation to demonstrate that the

item was provided to the beneficiary. Each of the three claims was for HCPCS code L3020 inserts billed by Diabest for three different beneficiaries. Code L3020 covers a removable foot insert custom fabricated from a three-dimensional model of the patient's foot. Diabest utilized a third party to fabricate the inserts after obtaining three-dimensional computer scans. For all three claims, according to the delivery tickets, the beneficiaries signed and acknowledged receipt of the inserts before the inserts were fabricated by the third party, which is not possible.

For example, for a beneficiary who was prescribed inserts on December 14, 2018, Diabest provided documentation indicating that Diabest performed a scan of the beneficiary's foot and transmitted the scan to a third party custom insert manufacturer on January 30, 2019. According to Diabest's delivery ticket, however, the beneficiary signed and acknowledged receipt of the insert on that same day (January 30, 2019), which would not be possible given that the manufacturer is located in Oregon and it would take more than one day to receive the scan, manufacture and deliver this type of insert. This point is reinforced by the invoice documentation from the third party manufacturer, which showed that the manufacturer made the inserts on February 5, 2019 - six days after the date on the delivery ticket. The other two deficient claims follow the same pattern. For each of the three claims, Diabest was paid $176, for a total of $528.

N.J.A.C. 10:49-9.8 requires providers such as Diabest to "keep such records as are necessary to disclose fully the extent of services provided." In addition, according to *N.J.A.C.* 10:59-1.7 (a) "Medical suppliers may request payment for medical supply services only after the supply/equipment has been delivered to the beneficiary." Due to the conflicting records, MFD cannot be assured the beneficiaries were provided with the prescribed inserts. As a result, MFD finds that these three claims violated *N.J.A.C.* 10:49-9.8.

Summary of Overpayments

In general, MFD determined for the period from July 1, 2014 through June 30, 2019, for the claim types reviewed, Diabest's claims generally complied with applicable laws and regulations. MFD did find, however, that Diabest improperly billed three claims for which Diabest received Medicaid overpayments totaling $528. Diabest must repay these overpayments totaling $528 to the Medicaid program.

If, after reviewing MFD's list of claims, you believe that these claims were properly billed to the Medicaid program in accordance with the relevant regulations and AMA guidelines, you may submit to MFD a written explanation with relevant supporting documentation within 10 days from the date of this letter. Should you submit such a written explanation within this 10-day time period, MFD reserves the right to obtain additional records and perform any additional analysis. Should you fail to respond in writing to MFD within this 10-day period, MFD may take further appropriate action, including but not limited to: issuing a Notice of Claim, Certificate of Debt, and Notice of

Withholding, which would withhold a portion of your future claims payments, and any other remedy available to MFD by law.

If you agree with MFD's conclusion, please mail a Certified Check, Bank Check, or Attorney Trust Check for the above stated amount made payable to "Treasurer, State of New Jersey" to the address below. Please insert on the "memo line" of the check "[redacted]".

Treasurer, State of New Jersey
Division of Revenue
200 Woolverton Street, Building 20
Lockbox 656
Trenton, New Jersey 08646
Attn: Processing Bureau

In addition, please forward a copy of your certified payment by email to [redacted] Should you have any questions regarding this letter please email [redacted] or you may email me at [redacted]

MFD appreciates Diabest's cooperation during this audit. Except for the request to repay the overpayment amount indicated above, no further action is necessary with respect to this audit.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER

DATE: 1/11/2021

By: /s/ Michael Morgese

Michael Morgese
Audit Supervisor
Medicaid Fraud Division

Enclosures:
Exhibit A - AMA HCPCS and CPT Code Descriptions
Attachment I – Testing Results Summary

[These appendices were omitted to maintain confidentiality.]

c: Prabhkaran S. Bedi, Esq.

MFD Update - February 25, 2021

On February 25, 2021, MFD received a check dated January 25, 2021 from Diabest for the full amount due, $528.

EXHIBIT A

Top 15 HCPCS Code Descriptions

Code	Code Descriptor
A4554	Disposable underpads, all sizes
A6530	Gradient compression stocking, below knee, 18-30 mmHg, each
A6533	Gradient compression stocking, thigh length, 18-30 mmHg, each
A4670	Automatic blood pressure monitor
E0245	Tub stool or bench
E0570	Nebulizer, with compressor
L3020	Foot, insert, removable, molded to patient model, longitudinal/ metatarsal support, each
L3030	Foot, insert, removable, formed to patient foot, each
L3216	Orthopedic footwear, ladies' shoe, depth inlay, each
L3217	Orthopedic footwear, ladies' shoe, high-top, depth inlay, each
L3221	Orthopedic footwear, men's shoe, depth inlay, each
T4526	Adult sized disposable incontinence product, protective underwear/pull-on, medium size, each
T4527	Adult sized disposable incontinence product, protective underwear/pull-on, large size, each
T4528	Adult sized disposable incontinence product, protective underwear/pull-on, extra-large size, each
T4535	Disposable liner/shield/guard/pad/undergarment, for incontinence, each