



State of New Jersey

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Director

March 15, 2021

BY ELECTRONIC MAIL

Mr. Jeffrey Goldstein
Chief Executive Officer
Daybreak Treatment Care
368 Whitehorse Pike
Atco, NJ 08004

RE: Audit Letter – Notice of Overpayment–Daybreak Treatment Care and Daybreak Treatment Care, LLC ([REDACTED])

Dear Mr. Goldstein:

As part of its oversight of the Medicaid and New Jersey FamilyCare programs (Medicaid), the New Jersey Office of the State Comptroller, Medicaid Fraud Division (OSC) audited claims for partial-care services submitted by Daybreak Treatment Care and Daybreak Treatment Care, LLC (Daybreak), National Provider Identification Numbers [REDACTED] and [REDACTED] and Medicaid Provider Numbers [REDACTED] and [REDACTED], for the period September 1, 2015 through March 15, 2020 (audit period). OSC hereby provides you with this Audit Letter.

Executive Summary

OSC conducted this audit to determine whether Daybreak billed for partial-care services in accordance with applicable state laws, regulations and guidance. OSC selected for review a statistically valid probe sample of 50 partial-care claims from a universe of 143,789 claims billed under New Jersey local procedure code Z0170 (Partial Care, Per Hour) and Healthcare Common Procedure Coding System (HCPCS) H0035 (Mental Health Partial Care). OSC found that 46 of 50 partial-care claims (92 percent), totaling \$4,246.56 in Medicaid funds paid to Daybreak, supported the number of units (hours) billed and otherwise complied with relevant requirements, *N.J.A.C. 10:66-2.7*, *N.J.A.C. 10:49-9.8*, and the Department of Human Services, Division of Medical Assistance and Health Services (DMAHS) Newsletter, Vol. 14 No. 42, June 2004. Daybreak's documentation for the remaining four claims, however, did not fully support the number

of units (hours) billed in accordance with applicable laws and regulations. Accordingly, OSC found that Daybreak improperly was paid a total of \$64.94 for four units associated with four billed claims, which constitutes an overpayment that Daybreak must repay to the Medicaid program.

In sum, OSC determined that for the claims reviewed, the documentation supporting the vast majority of Daybreak's claims complied with *N.J.A.C. 10:66-2.7*, *N.J.A.C. 10:49-9.8*, and the DMAHS Newsletter, Vol. 14 No. 42, June 2004. OSC did find, however, that Daybreak improperly billed four units associated with four claims for which Daybreak received Medicaid payments totaling \$64.94. These four improperly billed claims constitute overpayments that Daybreak must repay to the Medicaid program. OSC will not be extrapolating the overpayment amount, but will be seeking a direct recovery of \$64.94 on these four claims.

Further, OSC brings to your attention other areas of non-compliance that did not result in monetary recovery. Specifically, OSC found that Daybreak's Group Sign-In Sheets did not always correctly indicate begin and/or end time and did not always contain the counselor's signature as required. OSC recommends corrective action on your part to address these areas of non-compliance identified during the audit. Given OSC's findings, specifically that Daybreak's documentation was generally compliant with applicable requirements, OSC intends to close this audit upon receipt of Daybreak's payment of the identified overpayment amount, \$64.94.

Background

Daybreak, located in Atco and West Berlin, New Jersey, provides a comprehensive array of outpatient clinic services including psychiatric rehabilitation treatments and services, individualized treatment planning and case management, group and individual therapy, and medication management to adults with mental illness. Daybreak's partial-care services, billed under codes Z0170 (Partial Care, Per Hour) and H0035 (Mental Health Partial Care), are designed to improve the social, occupational and educational functioning of the participants, and to reduce unnecessary hospitalization.

Partial-care programs are administered primarily by the Division of Mental Health and Addiction Services (DMHAS), within the New Jersey Department of Human Services. These programs provide individualized outpatient clinical services (*e.g.*, group and individual therapy, prevocational services, and medication management) to beneficiaries ages five and older with a primary diagnosis of psychiatric disorder accompanied by an impaired ability to perform activities of daily living, learning, working, or social roles. Pursuant to regulation, among other requirements, partial-care service providers are required to: (1) provide mental health services by, or under the direction of, a psychiatrist; (2) perform a comprehensive intake evaluation; (3) develop and periodically review a written, individualized plan of care for each Medicaid beneficiary; (4) maintain written documentation to support each medical/remedial therapy service, activity, or session for which billing is made; (5) document individual services on a daily basis; and (6) write progress notes documenting the services provided at least once per week. See *N.J.A.C.*

10:66-2.7. To support partial-care services, documentation must include the specific services rendered, date and time of each service, service duration, signature of the practitioner who rendered the service, the setting in which services were rendered, as well as notation of unusual occurrences or significant deviations from the treatment described in the plan of care. See *N.J.A.C. 10:66-2.7(l)(1)(i)-(vi)*. In addition, partial-care providers must document on a daily basis the individual services provided to beneficiaries. See *N.J.A.C. 10:66-2.7(l)* and DMAHS Newsletter, Vol. 14 No. 42, June 2004.

Objective

The purpose of this audit was to determine whether Daybreak, Medicaid Provider Numbers [REDACTED] and [REDACTED], appropriately billed for services in accordance with state laws, regulations and guidance.

Audit Scope

The scope of this audit was for the period of September 1, 2015 through March 15, 2020. This audit was conducted under the authority of the *Medicaid Program Integrity and Protection Act*, (*N.J.S.A. 30:4D-53 et seq.*) and the Office of the State Comptroller *N.J.S.A. 52:15C-1 et seq.*

Audit Methodology

OSC's audit methodology consisted of the following:

- Selected a statistically valid random probe sample of 50 claims with five hours of partial-care services provided to each beneficiary daily (44 Medicaid beneficiaries associated with these claims) billed by Daybreak under codes Z0170 and H0035, totaling \$4,311.50 paid to Daybreak.
- Reviewed Daybreak's records in support of the probe sample of 50 claims to determine whether the documentation provided complied with the requirements of *N.J.A.C. 10:49-9.8*, *N.J.A.C. 10:66-2.7*, and DMAHS Newsletter, Vol. 14 No. 42, June 2004.

Audit Findings

A. Identified Deficiencies Regarding New Jersey Local Procedure Code Z0170 and HCPCS code H0035

OSC reviewed Daybreak's documentation for the 50 selected Medicaid paid claims to determine whether Daybreak's documentation and claims satisfied the above-referenced requirements. OSC's review found that in 46 of the 50 claims in OSC's probe sample, Daybreak's documentation supported the partial-care units billed to and paid by Medicaid. OSC found, however, that for 4 out the 50 claims, a portion (number of units)

of each day's billing lacked documentation to support the partial-care units billed. The number of improperly billed units for these four claims totaled four units (4 hours), and resulted in a total overpayment of \$64.94. Because this overpayment amount is not materially significant in the context of the sample size and dollar value, OSC determined that it would not be appropriate to extrapolate these results to the universe of Daybreak's claims. (See Exhibit A).

In total, OSC adjusted the four claims, totaling \$64.94, to reflect the proper number of units to be billed in accordance with *N.J.A.C. 10:66-2.7(d)*; *N.J.A.C. 10:66-2.7(l)*; and DMAHS Newsletter, Vol. 14 No. 42, June 2004.

The requirements of the relevant regulations and Newsletter are set forth below.

N.J.A.C. 10:66-2.7(d):

For purposes of partial care, full day means five or more hours of participation in active programming exclusive of meals, breaks and transportation; half day means at least three hours but less than five hours of participation in active programming exclusive of meals, breaks and transportation. The smallest unit of partial care that may be prior authorized by NJ Medicaid/FamilyCare is one hour, with a minimum of two hours per day and a maximum of five hours per day.

N.J.A.C. 10:66-2.7(l):

The mental health clinic shall develop and maintain legibly written documentation to support each medical/remedial therapy service, activity, or session for which billing is made.

1. This documentation, at a minimum, shall consist of:
 - i. The specific services rendered, such as individual psychotherapy, group psychotherapy, family therapy, etc., and a description of the encounter itself. The description shall include, but is not limited to, a statement of patient progress noted, significant observations noted, etc.;
 - ii. The date and time that services were rendered;
 - iii. The duration of services provided;
 - iv. The signature of the practitioner or provider who rendered the services;
 - v. The setting in which services were rendered; and
 - vi. A notation of unusual occurrences or significant

deviations from the treatment described in the plan of care.

The DMAHS Newsletter, Vol. 14 No. 42, June 2004, states in relevant part the following: Units of service of partial care services must be provided for a minimum of two hours and a maximum of five hours per day. If a claim is submitted for less than two hours or more than five hours, the claim will be denied by Error Code 374, 'Reported Service Units must be greater than 1 and less than 6.' In those instances, which the number of hours of services provided is fractional (for example, 2.5 hours), the provider must 'round-down' the units reported to the lower whole number (2 hours).

B. Additional Findings of Non-Compliance

OSC reviewed all of the Group Sign-In Sheets associated with the 50 probe sample claims to ensure that Daybreak maintained documentation supporting each session for which it billed and was paid. In accordance with *N.J.A.C. 10:66-2.7(l)*, OSC identified the following exceptions:

- OSC found that for 6 of the 50 probe sample claims (12 percent), resulting in 7 exceptions, the begin and/or end time indicated for a group session(s) was incorrectly recorded by the counselor on the Group Sign-In Sheets. OSC is not seeking a monetary recovery for these seven exceptions, since OSC was reasonably assured based on other documentation reviewed that the beneficiaries were present for the group sessions. Accordingly, OSC adjusted its calculation of time spent in active programming using the correct times and duration for those sessions where the time of the group session was incorrectly recorded. Daybreak should maintain accurate documentation in accordance with *N.J.A.C. 10:49-9.8(b)*. (*See Exhibit B*).
- OSC found for 43 of the 50 probe sample claims (86 percent), 114 Group Sign-In Sheets associated with these claims, did not contain the counselor's signature as required by *N.J.A.C. 10:66-2.7(l)*. OSC is not seeking a monetary recovery for these 114 exceptions because OSC was reasonably assured based on its review of the other documentation that Daybreak provided the partial-care services; however, Daybreak should maintain this documentation in accordance with *N.J.A.C. 10:49-9.8(b)*. (*See Exhibit C*).

The relevant regulation, *N.J.A.C. 10:49-9.8(b)*, provides, in part:

- (b) Providers shall agree to the following:
1. To keep such records as are necessary to disclose fully the extent of services provided, and, as required by *N.J.S.A. 30:4D-12(d)*, to retain individual patient records for a minimum

- period of five years from the date the service was rendered;
- 2. To furnish information for such services as the program may request;
- 3. That where such records do not document the extent of services billed, payment adjustments shall be necessary

In addition, pursuant to *N.J.A.C. 10:66-2.7 (l)*, “[t]he mental health clinic shall develop and maintain legibly written documentation to support each medical/remedial therapy service, activity, or session for which billing is made.” As set forth fully above, this regulation requires documentation to support claims including, but not limited to, the type of service rendered, a description of the encounter, the date and time services were rendered, the duration of the services, and the signature of the practitioner or provider who rendered the services.

Summary of Overpayments

OSC determined that Daybreak improperly billed and received payment for a total of 4 unsupported units in 4 out of 50 probe sample claims for New Jersey local procedure code Z0170 for and HCPCS code H0035, for the period September 1, 2015 through March 15, 2020. For these claims, Daybreak received an overpayment of \$64.94 that it must repay to the Medicaid program. Enclosed please find password protected files containing claim detail for those claims where Daybreak improperly billed for units of service as well as non-compliant claims that did not result in monetary recovery. To obtain the passwords, please contact Ms. [REDACTED] [REDACTED] by electronic mail at [REDACTED].

If, after reviewing OSC’s list of claims, you believe that these claims were properly billed to the Medicaid program in accordance with the relevant regulations and guidance, you may submit to OSC a written explanation with relevant supporting documentation within 10 business days from the date of this letter. Should you submit such a written explanation within this 10-day time period, OSC reserves the right to request additional records, conduct on-site visits, and/or perform any additional analysis necessary to conclude this review. Should you fail to respond in writing to OSC within this 10-day period, OSC 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 OSC by law.

If you agree with OSC’s conclusion, please mail a Certified Check, Bank Check, or Attorney Trust Check in the amount of \$64.94 made payable to “Treasurer, State of New Jersey” to the address below. Please insert on the “memo line” of the check “[REDACTED]”.

Jeffrey Goldstein, Chief Executive Officer
Daybreak Treatment Care
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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 Ms. [REDACTED] at [REDACTED] or you may email me at [REDACTED]. Except for the request to repay the overpayment amount indicated above, no further action is necessary with respect to this audit. OSC appreciates Daybreak's cooperation during this audit.

Thank you for your attention in this matter.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER

By: /s/ Michael M. Morgese
Michael M. Morgese
Audit Supervisor
Medicaid Fraud Division

Enclosures:

Exhibit A - Schedule of Overbilling of Units of Partial-Care Services
Exhibit B - Schedule of Classes with Incorrectly Recorded Group Times
Exhibit C - Schedule of Group Sign-In Sheets Missing Practitioner's Signature

[These appendices were omitted to maintain confidentiality.]

MFD Audit Update – April 21, 2021

On April 21, 2021, MFD received a check dated March 29, 2021 from Daybreak Treatment Care for the full amount due, \$64.94.