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**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

Kevin Westray, Legal Assistant

HORIZON ADULT DAY HEALTH,	:	DOCKET NO:
Petitioner,	:	OSAH-DCH-PROP-1303659-25-Teate
	:	
v.	:	Agency Reference No.: P10-432
	:	
DEPARTMENT OF COMMUNITY	:	
HEALTH,	:	
Respondent.	:	

INITIAL DECISION

I. Introduction

Horizon Adult Day Health, Inc. (Horizon) appealed the Department of Community Health's (DCH's) notice of recoupment for sums totaling \$20,560.82. At a hearing held on September 18, 2012, Lucy Osundwa, Horizon's Director and owner, represented Horizon. Tara Dickerson, Esq. represented DCH. The record remained open until October 3, 2012, to allow submission of proposed findings of fact and conclusions of law. For reason's indicated Respondent's recoupment action is AFFIRMED and Petitioner is directed to pay DCH \$20,560.82 as directed.

II. Findings of Fact

Medicaid Policies, Procedures and Enforcement

1. As a Medicaid Provider, Horizon is governed by the general Part I, Policies and Procedures Manual Medicare/Peachcare for Kids; Part II Policies and Procedures for Service Option Using Resources in the Community Environments (SOURCE) Manual; Part II Community Care Service Programs (CCSP) Manual; and Part II, Adult Day Health Manual (ADH Manual).¹ The ADH Manual contains examples of required clinical record forms such as a Member's Service Record Form (Appendix A) and a Member's Activity Participation Record (Appendix B). (Respondent Exhibits 1, 2, 3 and 4).

2. In addition to enrollment in either the CCSP program or the SOURCE program, to be eligible for the Adult Day Health (ADH) program, a Medicaid recipient must also be approved for ADH by DCH. ADH is a community-based day program that provides social, health, and rehabilitative services to individuals who are functionally impaired. All ADH

¹ The parties did not tender a copy of the Statement of Participation signed by Horizon at the hearing. However, based on the positions and arguments of the parties, the Court assumes that Horizon and DCH have entered into a contractual relationship that is governed by the provisions of the SOURCE and CCSP Medicaid Manuals.

services reflect the individual's needs pursuant to the plan of care developed by the care coordinator and approved by the individual's physician². (Respondent Exhibits 2, 3 and 4).

3. To insure compliance with program requirements, DCH, through its Division of Program Integrity and through the Georgia Medical Care Foundation (GMCF), performs utilization reviews of providers as well as members. Such reviews include an analysis of selected medical records, departmental reports, claims paid, and other documentation submitted to support payment of services rendered by providers, and/or received by members. (Respondent Exhibit 1).

Utilization review of Horizon on April 12, 2012

4. Jennifer Judson, a registered nurse (RN) reviewer employed by GMCF, conducted an onsite Utilization Review Audit of Horizon records on April 12, 2012. The selected review period was April 12, 2011 through April 11, 2012. During that time, Horizon served four Medicaid members; however, only two members' records³ were selected for review, and one client interview was conducted. During the exit interview, the initial findings were discussed with Ms. Osundwa, Horizon's Owner and Director, who was also present during the audit as well. At that time, Ms. Osundwa acknowledged an overview of deficiencies and that a Corrective Action Plan (CAP) and a recoupment were separate and distinct processes with different deadlines. (Respondent Exhibits 5, 6, and 7; Testimony of Jennifer Judson, RN reviewer; Testimony of Bruce Kennedy RN MSN, GMCF Utilization and Compliance Review Team Leader; and Testimony of Lucy Osundwa, Director).

5. The Initial Review Findings were placed in a detailed report compiled by the on-site auditor and the GMCF Utilization and Compliance Review Team Leader. The report consisted of each area of review; the level of compliance with the particular area at issue; and the policy reference to support the particular area addressed in the review. The report was sent to the Horizon along with a request for a corrective action plan to address any deficiencies noted. (Respondent Exhibit 7; Testimony of Jennifer Judson, RN; Testimony of Bruce Kennedy, RN MSN; and Testimony of Lucy Osundwa, Director).

Adverse action following utilization review

6. A Notice of Proposed Adverse Action dated May 8, 2012 was also forwarded to Horizon for the recoupable issues cited in the Initial Review Findings. The Petitioner was also notified at that time of the right to request an Administrative Review. While several issues were cited, not all issues were recoupable. The recoupable issues were identified for each of the two Medicaid members reviewed (JW and KP) as follows: (1) there were no supervisory visits for the review period located in the record at time of review as required under Sections 606.17 and 1103.5; (2) The RN did not sign the activity participation record as required during the review period; (3) the RN did not sign and date service record forms for January 2012 through March 2012 for JW and April 2011 through December 2011 for KP; and (4) a

² Services available through ADH include health related services; skilled therapies; assistance with activities of daily living; therapeutic activities; food services; transportation; education of caregivers; emergency care; and preventive and rehabilitative services. (Respondent Exhibit 4 §1101).

³ Records belong to member K. Padgett enrolled April 4, 2011; and J. Young enrolled June 29, 2011. (Respondent Exhibits 9C to 9H; Testimony of Lucy Osundwa, Director).

provider bill on January 3, 2011 for KP with no supporting documentation to support billing. These deficiencies occur under Sections 402.2, 1103.4 1103.6, 606.4C and 606.16. For recoupable issues identified, the Recoupment Detail Report attached to the notice assessed the total value for recoupable claims previously billed as \$20,560.82. (Testimony of Jennifer Judson, RN; Testimony of Bruce Kennedy, RN MSN; Respondent Exhibit 8).

7. Rather than immediately paying the \$20,560.82, Horizon elected administrative review as authorized. Along with additional documents to support its Administrative Review request, Horizon submitted a CAP submitted identified a response to each issue cited during the Audit. (Respondent Exhibits 1, 9-9I, 10; Testimony of Jennifer Judson, RN; Testimony of Lucy Osundwa, Director).

8. The additional documents that Horizon submitted for the Administrative Review to address the recoupment issues included: (1) a registered nurse log was submitted in lieu of the notes and signature required to document Supervisor Visits (Appendix A-2) and (2) trip sheets, Activity Records, and Sign-in Ledgers to document the members' presence at the facility during the review period at issue. (Respondent Exhibits 9C, 9E, and 9I; Testimony of Lucy Osundwa, Director/Owner).

9. GMCF's Administrative Review did not yield any change in the prior audit inasmuch as the additional documents Horizon submitted did not alter the recoupable deficiencies noted. The Administrative Review Response Ledger repeatedly addressed the following issues:

1. Failure to comply with ADH Manual § 1103.5, Supervisor visits must be conducted at least monthly by either the registered nurse or licensed practical nurse; and
2. Failure to comply with ADH Manual § 1103.6, Provider must maintain member service record form, (Appendix A) in the clinical record.

(Respondent Exhibits 4 and 11; Testimony of Bruce Kennedy, RN MSN).

10. Horizon requested an administrative hearing following the adverse Administrative Review decision. However, at the hearing, Horizon presented no evidence that refutes the determination of deficiencies that authorize DCH to recoup sums paid for Medicaid recipients. Horizon employs a LPN as a full time staff member; however, for RN services, Horizon utilizes services volunteered by Russell Lewis, an RN whom they designate as the LPN's supervisor. As requested, Mr. Lewis periodically conducts client assessments. He acknowledges error in documenting supervisory notes until he became aware of the utilization review audit report. Although Ms. Osundwa acknowledges that the Service Record Forms and the Activity Participation Record were not properly documented, she argues that services were actually rendered and that the errors were inadvertent. (Testimony of Russell Lewis, R.N.; Testimony of Lucy Osundwa; Owner/Director; Respondent Exhibit 12).

III. Conclusions of Law

1. Supervisory visits must be conducted at least monthly by either a Georgia-licensed RN or a LPN under the RN's supervision. ADH Manual §1103.5 (A) p. XI-19 If the RN does not directly provide such services, a Licensed Practical Nurse (LPN) who is under the direct supervision of the RN may do so; however, an RN, not an LPN, must conduct the

supervisory visit at least every 62 days. Id. Each RN or LPN making a supervisory visit must sign and date the documentation of the visit. CCSP Manual § 606.17, p VI-57. Further, a supervision RN must review and co-sign documentation of the LPN's visit within 10 days. Id.

2. In addition to information required in Section 606.4 of the CCSP Manual, a provider must maintain other information that specifically includes a Member's Service Record Form and a Member's Activity Participation Record. ADH Manual §1103.6 (B) and (C) p. XI-20.

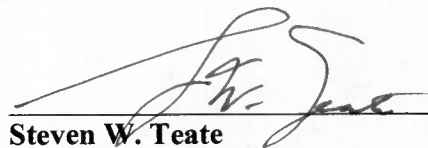
3. DCH, through the Division of Program Integrity and its agent, the Georgia Medical Care Foundation (GMCF) conducted the Utilization Review of the Horizon ADH facility. The audit revealed that Horizon failed to document services provided to the Medicaid members pursuant to the ADH Manual §§ 1103.5 and 1103.6. The ADH Manual provides Appendix A as a standard form to use to comply with this mandate. As the Director stated and as documented in the CAP submitted, "A member service form was not completed on the members. This was an inadvertent error..." Further, Horizon failed to document Supervisory Visits for the members at issue pursuant to ADH Manual § 1103.5. Appendix A-2, a standard form provided for ADH providers, specifically provides a specific area to document the Supervisory Visit for each Medicaid member. Merely indicating through a log the presence of an RN does not address the services rendered by the RN when present.

4. DCH is authorized to recoup payments previously made to a provider for reasons enumerated in Section 407 of the Medicaid/Peachcare for Kids Manual. Those reasons include a provider's failure to maintain proper documentation. Medicaid/Peachcare for Kids Manual § 407 (J).

IV. Decision

DCH's recoupment for reasons indicated is AFFIRMED. Accordingly, Horizon is directed to remit repayment in the amount of \$20,560.82 to DCH within 30 days of the issuance of this order.

SO ORDERED, this 26th day of October 2012.


Steven W. Teate
Administrative Law Judge