

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

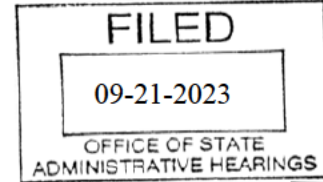
**PRUITT HEALTH HOSPICE,  
GAINESVILLE,**  
                    **Petitioner,**

v.

**DEPARTMENT OF COMMUNITY  
HEALTH,**  
                    **Respondent.**

**Docket No.: 2326197  
2326197-OSAH-DCH-PROP-67-  
Woodard**

**Agency Reference No.: OIG2203903**



**INITIAL DECISION**

Petitioner PruittHealth Hospice – Gainesville (“PruittHealth”) appeals the decision by Respondent Department of Community Health (“Respondent” or “Department”) to recoup \$102,168.98 in Medicaid reimbursement. A hearing was held on July 13, 2023, at the Office of State Administrative Hearings in Atlanta, Georgia. Richard Gardner, Esq., represented the Petitioner. Kevin Spainhour, Esq., represented the Department. For the reasons stated below, the Court **AFFIRMS IN PART** Respondent’s recoupment of the claims related to Patient 2 and **REVERSES IN PART AND REMANDS THIS MATTER** to Respondent to adjust the recoupment of claims for services provided to Patient 3, in accordance with the ruling summarized in Section III, *infra*.

**I. FINDINGS OF FACT**

1. PruittHealth is a Medicaid-enrolled provider of hospice services located in Gainesville, Georgia. During the relevant period, PruittHealth provided hospice services to Medicaid-eligible individuals. (Testimony of Kiesha Million; Testimony of Zachary Youngblood; Exhibits P-1, P-2, P-3).
2. The Department administers Georgia’s Medicaid program. In order to participate in the Medicaid program, providers must enter into a form contract known as a “Statement of

Participation,” which is prepared by the Department. The contract incorporates by reference the requirements set forth in the Department’s policy and procedure manuals: Part I, Policies and Procedures for Medicaid/Peach Care for Kids (“Part I Manual”) and Part II, Policies and Procedures for Hospice Services (“Part II Manual”). (Exhibits R-1, R-2).

3. The Medicaid program reimburses hospice providers a daily rate that varies based upon the number of days a patient has been on service and the level of care provided, with a potential for additional service intensity add-ons during the last days of a patient’s life. Part II Manual § 1001 (Exhibit R-2; Testimony of Zachary Youngblood).
4. A Medicaid member who is enrolled in the Hospice program may continue to receive other Medicaid waiver services as long as those services are not duplicative of the hospice services. According to the Part II Manual, “it is the responsibility of the hospice provider to ascertain if the member is enrolled or participates in another Medicaid program. Once other programs are identified, it is incumbent upon the hospice provider to coordinate the multiple plans of care and eliminate the duplication of Medicaid services. Once conducted, both the hospice and waiver providers must document coordination activities and retain such documentation and resulting coordinated plans of care in the member’s medical record.” Part II Manual § 907 (Exhibit R-2).
5. The Manual further provides that the hospice agency, the member’s waiver case manager and the member “**must** communicate, establish, and agree upon a coordinated plan of care.” Id. § 907 paragraph A. (Exhibit R-2) (emphasis in original).
6. Moreover, “[f]ailure to demonstrate that multiple Medicaid plans of care have been coordinated will be considered a failure to comply with the terms of hospice policy. As such, lack of evidence of coordinated care in documentation will result in a terminated lock-in and

any paid claims for hospice services will be subject to recoupment.” Id.; see also id. § 704.2, L. (Exhibit R-2).

7. The Department’s Hospice Services Manual does not direct a hospice provider to a specific source or recommend a particular process to determine whether a member is receiving waiver services. PruittHealth’s policy is that, upon the initial referral of a patient, it runs a report called a “Eligibility Verification Request” in the Department’s GAMMIS (Georgia Medicaid Management Information System) platform to confirm the patient’s Medicaid eligibility. According to the Department’s Provider Web Portal Navigational Manual, the “eligibility Benefit Plans” panel “allows providers and billing agents to view all active benefit information for the Georgia Medicaid member.” The example provided in the manual shows a member’s participation in the Community Care Waiver program. Provider Web Portal Navigational Manual § 19.3. Additionally, Petitioner provided screenshots from GAMMIS showing the Benefit Plans panels for a sample of its patients, all of which showed that those patients were enrolled in Medicaid waiver programs. (Testimony of Kiesha Million; Testimony of Kristal Brooks; Exhibits P-5, P-6, P-7, P-8, R-2).
8. Additionally, PruittHealth nurses ask patients and their families whether a patient is receiving waiver program services as part of their routine nursing assessments. Those assessments are conducted upon a hospice patient’s admission and on a weekly basis thereafter. (Testimony of Ashley Wood).
9. Ashley Wood, PruittHealth’s director of nursing, testified that if a hospice patient were also receiving waiver program services, she would expect that PruittHealth staff would inevitably cross paths with the patient’s waiver program providers. PruittHealth’s nurses are typically in the patients’ homes twice per week for one to two hours, its certified nurse aids three times per

week for forty-five minutes to an hour, and its social worker once per week for around an hour. In contrast, Ms. Wood believes that a waiver program personal care aide would be in a patient's home for four to eight hours per day, five to seven days per week. (Testimony of Ashley Wood).

10. Myers & Stauffer LC is contracted with the Department to perform recovery audits for Medicaid providers, including those providing Hospice services. In 2022, Myers & Stauffer conducted a recovery audit of Medicaid claims submitted by Petitioner from 2018 through 2021 "which appear to have been rendered to members who were concurrently receiving services from a Medicaid Waiver program." Specifically, Myers & Stauffer identified three Medicaid recipients who were hospice patients at PruittHealth and for whom concurrent claims had been submitted by Medicaid waiver programs. At the evidentiary hearing, patient J.S. was referred to as "Patient 1, patient T.W. was referred to as "Patient 2," and patient K.W. was referred to as "Patient 3." Those references are continued herein. (Testimony of Zachary Youngblood; Exhibit P-1).
11. According to Myers & Stauffer, no formal findings were made with respect to Patient 1, because the only claims billed during the period were for home delivered meals, and the Department determined that it likely was not readily apparent to providers that Meals on Wheels is a waiver program. (Testimony of Zachary Youngblood; Exhibit P-3).
12. Patient 2's GAMMIS profile did not show that he was receiving any Medicaid waiver services. Ms. Wood testified that she met with Patient 2 on three separate occasions, and personally asked him whether he was enrolled in a waiver program. He told her that he had tried to enroll in a waiver program administered by a company called "Legacy Link." However, Legacy Link had informed Patient 2 that it could not provide services in his area at that time. PruittHealth

agreed to provide CNA services to Patient 2 until he was able to start receiving those services from Legacy Link. Ms. Wood directed Patient 2 to notify PruittHealth if at any point Legacy Link began providing services to him. On subsequent weekly nursing assessments, he denied that he was receiving any waiver program services. According to Ms. Wood, PruittHealth personnel never observed anything that would indicate that Patient 2 was receiving waiver services. (Testimony of Ashley Wood; Testimony of Kiesha Million; Exhibit P-5).

13. Ms. Wood never directly called Legacy Link to ask whether it was providing services to Patient 2. She is unaware whether any other PruittHealth employee, such as Patient 2's social worker, contacted Legacy Link either. Ms. Wood testified, however, that she trusted Patient 2 when he said he was not receiving other services because, despite his health issues, he was "alert and oriented" and "very honest." (Testimony of Ashley Wood).

14. Like Patient 2's, Patient 3's GMMIS profile did not show that she was receiving any Medicaid waiver program services. Ms. Wood processed Patient 3's admission into hospice services. Ms. Wood asked Patient 3 and her family whether she was receiving any waiver services and was told that she was not. Patient 3 and her family also affirmed that she was not receiving waiver services during subsequent weekly nursing assessments. PruittHealth personnel never saw any indication that Patient 3 was receiving waiver program services. (Testimony of Kiesha Million; Testimony of Ashley Wood; Exhibit P-6).

15. As part of its audit, Myers & Stauffer requested that PruittHealth provide the following documentation: 1. The coordinated plan of care as established with the agreement of the Waiver case manager; 2. Any and all correspondence between your facility and a Medicaid Waiver provider pertaining to coordination of care, including any documented attempts to contact the Waiver case manager; 3. Any and all treatment plans, case management notes, and

progress notes for the requested dates of service which support coordination with a Medicaid Waiver provider; and 4. Any and all other documentation pertaining to the coordination of care with a Waiver provider or otherwise demonstrating compliance with the coordination requirements of Section 907. However, Myers & Stauffer specified that it was *not* requesting any medical records other than those described above, such as “[t]reatment plans, progress notes, and other records which do not support coordination of care with the Waiver case manager.” (Testimony of Zachary Youngblood; Exhibit P-1).

16. PruittHealth was unable to locate any responsive documentation within the medical records of the patients at issue. (Testimony of Kiesha Million; Exhibit P-2).

17. Zachary Youngblood, an employee at Myers & Stauffer, performed this recovery audit. He discovered that Medicaid waiver providers billed the Department for services provided to Patient 1, Patient 2, and Patient 3 during the period when they were also receiving hospice services from PruittHealth. Legacy Link was the provider that billed services for Patient 2. Mr. Youngblood determined that, from 2018 to 2021, the Department made an overpayment in the amount of \$102,168.98 to PruittHealth. The Department notified PruittHealth of its decision via an Initial Findings Letter on or about February 3, 2023. (Testimony of Zachary Youngblood; Exhibits P-1, P-3, R-4).

18. After PruittHealth expressed disagreement with the Initial Findings letter, Myers & Stauffer conducted an administrative review of the contested claims. While PruittHealth was given an opportunity to submit additional records showing coordination of care, it failed to do so. (Testimony of Zachary Youngblood).

19. On March 3, 2023, the Department informed PruittHealth that it was upholding its initial determination of an overpayment, and PruittHealth subsequently filed its request for an administrative hearing. (Exhibit R-3).

## II. CONCLUSIONS OF LAW

1. The Respondent bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07. The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).
2. Medicaid is a joint federal-state program that provides comprehensive medical care for certain classes of eligible recipients whose income and resources are determined to be insufficient to meet the costs of necessary medical care and services. 42 U.S.C. § 1396 et seq.; Moore v. Reese, 637 F.3d 1220, 1232 (11th Cir. 2011). Participation is voluntary, “but once a state opts to participate it must comply with federal statutory and regulatory requirements.” Moore, 637 F.3d at 1232. All states have opted to participate and, thus, each must designate a single state agency to administer its Medicaid plan. Id.; 42 C.F.R. § 431.10(a), (b)(1). Georgia has designated the Department as the “single state agency for the administration” of Medicaid. O.C.G.A. §§ 49-2-11(f), 49-4-142.
3. The relationship between Medicaid providers and the Department is governed by the terms of the Department’s manuals and the Statement of Participation that all providers are required to enter into as a prerequisite to enrollment. Both the Department and participating providers are contractually bound by the terms of the manuals. See Pruitt Corp. v. Ga. Dep’t of Cmty. Health, 284 Ga. 158, 160 (2008); ABC Home Health Servs., Inc. v. Ga. Dep’t of Med. Assistance, 211 Ga. App. 461, 463 (1993); State v. Stuckey Health Care, 189 Ga. App. 126, 129 (1989).

4. It is undisputed that PruittHealth failed to discover that Patients 2 and 3 were enrolled in Medicaid waiver programs and, as a result, subsequently failed to coordinate care with those programs and document that coordination in the patients' medical records, in violation of Section 907 of the Part II Manual.
5. That being said, PruittHealth did make a thorough effort to try to comply with the Manual for both Patient 2 and Patient 3. First, it checked each patient's GAMMIS profile to see whether they were listed as being enrolled in a waiver program. PruittHealth employees also asked both Patients 2 and 3, as well as their families, whether they were enrolled in a Medicaid waiver program on a weekly basis while they were receiving services from PruittHealth. Staff was also on the lookout for any clues in the patients' home that they were receiving services from providers other than PruittHealth.
6. The Department maintains that it does not direct hospice providers to look to GAMMIS to ascertain whether a member is enrolled in a waiver program, and that it does not claim that such information would be available via GAMMIS. This is contradicted by the Department's Web Portal Navigation Manual, which states that the Benefit Plans panel on GAMMIS allows providers to view "all active benefit information for the Georgia Medicaid member," and includes an example screenshot that lists a hypothetical member as enrolled in a waiver program. Web Portal Navigation Manual § 19.3. Moreover, Petitioner provided GAMMIS profiles for several other patients, which listed the waiver programs the patients were enrolled in. And while the Department does not explicitly direct providers to look to GAMMIS for waiver enrollment information, it does not advise against it, either.
7. The Department failed to suggest any step, other than looking to GAMMIS and asking the patient directly, that PruittHealth reasonably could have taken to determine whether Patient 3




was receiving Medicaid waiver services. The Court therefore does not find that recoupment would be appropriate in this instance. Patient 2's situation, however, is different. PruittHealth was put on notice that Patient 2 was actively trying to obtain services from a particular waiver program provider, Legacy Link. While PruittHealth routinely asked Patient 2 whether he had begun receiving those services, it could have easily contacted Legacy Link directly. If Legacy Link denied that it provided services to Petitioner or refused to confirm or deny that Patient 2 was a client, then PruittHealth would have done its due diligence. Because PruittHealth failed to take an obvious, reasonable step to confirm whether Patient 2 was receiving waiver services, recoupment of claims related to Patient 2 is authorized.

### III. DECISION

Based on the foregoing findings of fact and conclusions of law, the Respondent's finding of an overpayment is **AFFIRMED IN PART**. The Respondent may seek reimbursement for any claims related to the treatment of Patient 2. However, the Respondent may **not** seek reimbursement for any claims related to the treatment of Patient 3, and its decision is **REVERSED IN PART**. Respondent should reduce the overpayment in accordance with the above and provide Petitioner with written notice of the reduction in the total amount to be reimbursed within thirty (30) days of the date of this Order.

**SO ORDERED**, this 21st day of September, 2023.

  
M. Patrick Woodard  
Administrative Law Judge

