

**OFFICE OF THE ATTORNEY GENERAL OF NEW MEXICO  
MEDICAID FRAUD & ELDER ABUSE DIVISION  
CONFIDENTIAL INVESTIGATIVE REPORT**

**Case Report**       **Supplemental Report**

**Case Name: The Counseling Center**

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**Synopsis**

An investigation was conducted into potentially fraudulent conduct of The Counseling Center. The investigation looked at the Public Consulting Group (PCG) audit, the OptumHealth audit and a referral that came into our office regarding The Counseling Center.

The issues raised by the PCG audit are as follows:

- Inappropriate billing for case closure due to lost contact with client
- Unqualified staff
- Billing a procedure code without a modifier
- Billing for calls to client to remind of appointment
- Lack of new goals on updated treatment plan
- Units billed do not match documentation
- Billing comprehensive community support services that are not face to face or in the community.
- No discharge criteria on treatment plan
- No discharge plan included with treatment plan
- No estimated discharge date on treatment plan
- No documentation for date of service billed or more units billed than documented
- Assessments do not contain appropriate axes (there are five axes from the Diagnostic and statistical Manual of Mental Disorders which are different diagnoses)
- Psychosocial team not listed on documentation

Some of these issues were able to be resolved without a field investigation. Most of the unqualified staff issues were resolved by reviewing the credentialing files and speaking with the PCG staff. For example, numerous claims were failed due to therapist Raul Gonzales not being qualified to provide psychosocial rehabilitation services. We carefully reviewed the credentialing file for Raul and found that he had a bachelor's degree, had more than two years required relevant experience and had received 20 hours of comprehensive community support service training within 30 days of credentialing. Therefore he met the requirements to perform both comprehensive community support services and to be an on site team leader for psychosocial rehabilitation services. For those services billed without a modifier (psychosocial rehabilitation) we found no

difference in the rate of pay with or without the modifier so the provider received no additional funds for these billings. We were able to view the treatment plans in the office to determine whether they contained a discharge date, discharge criteria or a discharge plan. We found paperwork for most of the missing documentation so that there did not appear to be a pattern of billing without supporting documentation. Jennifer Chavez, Policy Staff Manager with the Program Integrity Bureau with Human Services Department, was instrumental in answering our questions regarding the axes needed for assessments. For the other issues we traveled to Alamogordo to interview staff and request more documents. That investigation is described below. The resulting amount of failed claims that we agreed with totals \$5,264.24. (See Exhibits A & B and investigative report)

Issues raised in the Optum audit as of June 2013 are:

- Unbundling of intensive outpatient therapy services.
- Billing 90806 on the same day that 90862 is billed.
- Upcoding therapy services to 90808.
- Excessive billing of psychosocial rehabilitation and comprehensive community support services.
- Billing for services to a client on the same day that the client was seen by another provider.
- Billing medication monitoring and medication management on the same day for the same client.

We were able to resolve the issue of billing 90806 (individual psychotherapy) and 90862 (pharmacologic management) by speaking with Jennifer Chavez, Policy Staff Manager with the Program Integrity Bureau. She explained that they could be billed on the same day if the person billing the therapy was not qualified to perform the other service. We knew from prior interviews in August of 2013 that the persons providing therapy were not qualified. This included employees who are therapists that have no medical training. The pharmacologic management was provided by either a psychiatrist or nurse practitioner. For the upcoding issue, we looked at percentages of 90804 (1/2 hour therapy), 90806 (1 hour therapy) and 90808 (1 1/2 hours therapy). We found that over 90% were 90806 which is appropriate. Upon review, the allegations related to excessive billing proved to be too vague and lacked the specificity necessary to allow further investigation. All of the remaining issues were investigated through interviews in Alamogordo. Those issues were unbundling of Intensive Outpatient Services, billing for services to a client on the same day that the client was seen by another provider and billing medication management and medication monitoring on the same day for the same client. Most issues had an immaterial amount of claims (15-30) except for the last issue which had 428 instances of this billing. See investigation below.

A separate referral on The Counseling Center had been received in 2012 in the form of an anonymous letter to this investigator. In the letter the writer listed the following four examples of what they considered fraud taking place at The Counseling Center:

- 1) The CCSS (Comprehensive Community Support Services) employees were ordered by their supervisor, Sandra Wilder, to sign progress notes and change the time to upgrade them for more time without justification in the progress notes.
- 2) The CCSS employees were ordered by Sandra Wilder to see Medicaid clients for 45 minutes but to bill for one hour.
- 3) The CCSS employees were ordered by Sandra Wilder to destroy progress notes and assessments and treatment plans to upgrade the time and date.
- 4) The CCSS employees were ordered by Sandra Wilder to sign progress notes without seeing the Medicaid clients for more than 1 hour.

A workforce report was requested and five current and former employees of The Counseling Center were selected for interview. Phone calls were made to these individuals and two out of the five denied that any of these activities were taking place and another two said that they did not work with Sandra Wilder. However, the fifth individual indicated that not only were these things being done but that the worst was that they were billing for enhanced assessments but only doing basic assessments. This was investigated by acquiring a random sample of 30 assessments for review. See investigative report. The total amount of the 30 enhancements billed, none of which qualified as "enhanced" is \$13,758.94 (Exhibit C). On our second visit to The Counseling Center on November 5, 2013, all staff that we interviewed were told of the above referenced allegations. All of the employees interviewed denied any knowledge that these activities were taking place. Because the original complainant was an anonymous source, we were not able to obtain specific documentation to support these allegations.

### **Background**

According to the Public Consulting Group audit report, in February 2013, the New Mexico Human Services Department (HSD) contracted with Public Consulting Group, Inc. (PCG) to audit fifteen mental health and substance abuse providers statewide. In 2012 these providers constituted approximately 87% of all Core Service Agency (CSA) spending for Medicaid and non-Medicaid behavioral health services.

Using an approach developed and refined through auditing behavioral health providers nationally and tailored to New Mexico's payment rules and regulations, PCG's audit identified more than \$36 million in overpayments to these providers over a three year period from 2009-2012.

PCG's clinical case file review utilized two different methodologies for each provider:

- 1) Random sampling of provider claims: Audit of 150 randomly sampled claims that were submitted by the providers. The sampling methodology allows for a statistically valid extrapolation of the findings.
- 2) Consumer case file review: A review of a full year's worth of case file

documentation for selected consumers (referred to as longitudinal claims)  
These findings are not extrapolated, but can be used to identify deficiencies that cannot be identified when reviewing a single claim.

The Human Services Division determined the results of the audit constituted credible allegations of fraud for 15 providers and sent 15 referrals to the Attorney General's Medicaid Fraud Control Unit (MFCU). One of those providers was The Counseling Center in Alamogordo, NM.

OptumHealth also provided a report of their audit of The Counseling Center dated June 30, 2013 with various allegations that needed to be investigated.

The Medicaid Fraud Unit had previously received a referral on The Counseling Center with a number of allegations that could not be substantiated by talking to current and former employees. However, one former manager stated that they were doing basic assessment and billing them as enhanced assessments. This referral was folded into the PCG investigation.

**Conclusion:**

A summary of significant findings is listed below.

- 1) Inappropriate billing for case closure (CCSS services) due to lost contact with client if there is an active treatment plan.
- 2) Community Support Worker with only a high school education preparing treatment plans and assessments.
- 3) Inappropriate billing for CSW calling clients to remind them of appointments if they cannot remember.
- 4) No discharge plan included with treatment plans.
- 5) Assessments do not contain proper number of axes.
- 6) The assessments reviewed do not meet the criteria for "enhanced".
- 7) No discharge plan contained in treatment plan.

As a result of employee interviews conducted at the provider's offices, supplemental documentation reviewed by the investigative team, discussions with staff personnel at the Human Services Department, a thorough analysis of claims review and application of the New Mexico Administrative Code for the payment of Medicaid claims, the investigative team determined that insufficient evidence exists to support a finding of fraudulent activity.

However, improper billing practices associated with enhanced assessments totaled \$13,758.94. In addition, unqualified individuals rendering services, a lack of documentation and inappropriate billing practices resulted in an amount of \$5,264.18.

The total amount associated with the above issues, which were found to be supported by the investigation, is \$19,023.18.

Completed

Closed

Reporting Person: Shawn D. Lester Date: 1/10/14  
Attorney: Patricia Pedraza Tucker Date: 1/10/14  
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