



North Carolina  
Department of Health and Human Services  
Hearing Office  
2501 Mail Service Center - Raleigh, N.C. 27699-2501

Beverly Eaves Perdue, Governor

Albert A. Delia, Acting Secretary

**NOTICE OF CORRECTED DECISION**

October █, 2012

certified mail

The Health Law Firm  
Attn: █  
1101 Douglas Avenue  
Altamonte Springs, FL 32714

Re: *Reconsideration Review*  
Provider Name: █  
Provider Number: █  
PI Case #: █

**NOTE: The only difference between this decision and the one issued on August 27, 2012 is that a computational error in the RAT-STATS has been corrected. Recipient Te.C. (DOS 2/27/09) was conceded by PCG at the reconsideration review, but said concession was not reflected in the original final recoupment amount. Therefore, Appendix B is not attached.**

Dear █:

This letter sets forth the decision of the Hearing Office of the North Carolina Department of Health and Human Services resulting from the reconsideration review that was conducted on July █, 2012.

**BACKGROUND INFORMATION**

In a letter dated June █, 2012, Public Consulting Group (PCG), which is under contract with the NC Division of Medical Assistance (DMA) to conduct post-payment reviews and audits of Medicaid claims, notified █ ("the provider") that a post-payment review of a statistically valid random sample of its Medicaid paid claims revealed documentation deficiencies and/or program errors. After applying a Disproportionate Stratified Random Sampling Technique to extrapolate the total overpayment, PCG determined that an overpayment existed in the amount of \$1,144,138.00. A copy of PCG's audit tool findings was included with the notice of overpayment. The provider requested a reconsideration review of this determination.

**PARTICIPANTS**

The following persons participated on behalf of PCG:

- █

- o [REDACTED]
- o [REDACTED]

The following persons participated on behalf of the provider:

- o [REDACTED]
- o [REDACTED]
- o [REDACTED]
- o George F. Indest III, Provider Representative

### APPLICABLE LAW, REGULATIONS AND POLICIES

The *North Carolina Administrative Code*, at Title 10A, Chapter 22, Subchapter F, provides authority for Program Integrity to conduct investigations of providers in order to ensure compliance with Medicaid laws, regulations, policies and guidelines and to recoup “improperly paid claims,” and 10A NCAC 22F .0606(b) specifically provides DMA with the authority to use a Disproportionate Stratified Random Sampling Technique in projecting and establishing provider overpayments.

All providers wishing to participate in the North Carolina Medicaid program are required to sign a “Provider Administrative Participation Agreement” requiring them to abide by specific terms and conditions listed within the agreement, including an agreement in section 3 of that contract to operate and provide services in accordance with state laws and regulations, medical coverage policies of the Department, and all guidelines, policies, provider manuals, implementation updates, and bulletins published by CMS, the Department, its divisions and/or its fiscal agent in effect at the time the service is rendered.

DMA’s policies regarding behavioral health services are published in DMA’s Clinical Coverage Policy 8A, *Enhanced Mental Health and Substance Abuse Services*, effective March 20, 2006, with subsequent revisions dated July 1, 2006, June 11, 2007, February 1, 2008, January 1, 2009, August 1, 2009 and January 1, 2011. Clarifications and/or addendums to those policies are also communicated to providers via various DMA and DMH/DD/SAS publications including the Records Management and Documentation Manual (APSM-45-2, November 1, 2007), the Person-Centered Planning Instruction Manual (July 2007 version and 2008 version) as well as through various Medicaid provider manuals, NC Medicaid *Bulletin* articles and *Implementation Updates*.

### WRITTEN DOCUMENTATION REVIEWED

The following written information was reviewed by the Hearing Officer:

- o Tentative Notice of Overpayment dated [REDACTED], 2012
- o Audit review tools for the claims at issue dated [REDACTED], 2012
- o Provider’s request for reconsideration received [REDACTED], 2012
- o Claim Summary Report prepared by PCG dated [REDACTED], 2012
- o Copies of clinical and administrative records for the claims at issue

### INFORMATION PRESENTED AT THE RECONSIDERATION REVIEW

Several issues were discussed, as follows:

**Recipient** [REDACTED]

PCG stated that upon further review they had determined that this claim would be considered passed.

[Note: Material Deleted.]

#### **PCG'S RECOMMENDATIONS FOLLOWING THE REVIEW**

At the conclusion of the review the Hearing Officer held the record open until August 1, 2012 to allow the provider to submit additional information. The Hearing Officer then asked PCG to review all of the written documentation submitted by the provider as well as to consider all of the verbal information given at the review to determine if the information would change PCG's position on any of the claims at issue. In response, PCG submitted an updated 'Provider Review Claim Summary' to the Hearing Office on August 16, 2012, the relevant portions of which are attached to this decision as Appendix B. Based on its

assessment of the information submitted and discussed at the reconsideration review, PCG recommended that the Hearing Officer modify the recoupment amount from \$1,144,138.00 to \$76,790.00.

### HEARING OFFICER'S FINDINGS AND CONCLUSIONS

After carefully considering all of the written and oral information presented within the context of DMA's policies regarding the services in question, I agree with the post-review recommendations that were made by PCG and I adopt and herein incorporate by reference the reasoning and the determination made by PCG in regards to the claims in the extrapolation sample as stated in PCG's post-review summary report (Appendix B) with the following exceptions and/or additional comments:

<u>Recipient</u>	<u>Date(s) of Service</u>	<u>Hearing Officer Decision</u>
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[Note: Material Deleted.]

[Note: Material Deleted.]

A summary that reflects my findings is included below as *Appendix A* to this decision.

### **REVISED RAT-STATS ANALYSIS**

Based on the Hearing Officer's findings, a revised RAT-STATS analysis was done by PCG and received by the Hearing Office on August 27, 2012, with the following results reported by PCG:

**Extrapolation:** Each claim in the sample was reviewed, resulting in an over/underpayment or correct payment determination. Using the Stratified Variable Appraisal process in RAT-STATS Version 2.0, an overpayment was calculated and multiplied by the total number of claims. This resulted in the total overpayment estimate called the point estimate. The same process also calculates a point estimate for the total paid amount and the total amount that should have been paid.

The RAT-STATS standard statistical formulas for stratified analysis create a point estimate and a confidence interval around the point estimate. Program Integrity uses the lower bound of the estimated overpayment to determine the amount to recoup.

In this case, the recoupment amount from this provider is \$24,083.00.

**Overall Results Data (Outpatient Behavioral Health Services)**

Sample Size (3 Strata): 107  
Total Paid for Sample: \$21,385.37  
Sampling Frame Size: 7,423  
Total Paid for Frame: \$1,445,893.11  
Claim Error Rate In Sample: 6.54%  
Point Estimate of Total Overpayment: \$81,548.00  
90% Lower Bound: \$24,083.00  
90% Upper Bound: \$139,013.00  
Recoupment Amount Using Lower Bound: \$24,083.00

**DECISION**

Based on the above-findings I modify the recoupment from the original amount of \$1,144,138.00 to the revised amount of **\$24,083.00**.

**APPEAL INFORMATION**

If you disagree with the reconsideration review decision, you may file a petition for a contested case hearing with the Office of Administrative Hearings (OAH) in accordance with G.S. § 150B-23(a). You have sixty (60) days from the date of the decision to file a contested case petition with the OAH. Petition forms are available on the OAH website at <http://www.oah.state.nc.us/forms.html>. There may be a fee associated with filing a petition at OAH. If you have questions about the OAH appeal process or the filing fee, OAH can be reached directly at (919) 431-3000. You must file the contested case petition form with the Office of Administrative Hearings, either in person at 1711 New Hope Church Road, Raleigh, NC 27609 or by mail at 6714 Mail Service Center, Raleigh, NC 27699-6714 and mail a copy to Legal Counsel, NC Department of Health and Human Services, 101 Blair Drive, Raleigh, NC, 27603.

Authority: 10A NCAC 22 F; NC Gen Stat 108A-25(b); 108A-54; 150B-22

**PAYMENT INFORMATION**

Pursuant to 42 CFR 433 Subpart F, DMA must collect all overpayments made to Medicaid providers in order to receive full federal financial participation for the NC Medicaid Program. Within thirty (30) days from the date this overpayment becomes final, pursuant to N.C. Session Law 2011-399, N.C.G.S. §108C-2(5), you must send a check in the amount of **\$24,083.00** to:

Office of Controller  
DMA-Accounts Receivable  
2022 Mail Service Center  
Raleigh, North Carolina 27699-2022

Attention PI Case #: XXXXXXXXXX

You may also request that the overpayment be recovered from claim payments, or you may request approval for a payment plan not to exceed twenty-four months.

**PLEASE NOTE: The Department is not required to approve requests for payment plans.**

In accordance with N.C.G.S. §105-241.21 and as required by N.C.G.S. §147-86.23, a late payment penalty will be assessed and monthly interest will begin to accrue thirty (30) days from the date this overpayment becomes final.

Be advised that this post-payment review and overpayment notice does not excuse the Medicaid provider agency from any criminal or civil liability that the Medicaid provider agency may have incurred and whereby additional sanctions may be imposed.

Any communication about this matter should be with the Division of Medical Assistance, Program Integrity Section. **Do not, under any circumstances, request that HP Enterprise Services adjust for the amount or items identified here as this could result in duplicate recoupment.**

Sincerely,



Ryan A. Eppenberger  
Hearing Officer

cc: [REDACTED] PCG

[REDACTED] Behavioral Health Review Section  
[REDACTED] DHHS Controllers Office