

INDIVIDUAL BEHAVIORAL HEALTH SERVICE PROVIDERS
BILLING MORE THAN 12 HOURS OF SERVICES IN A DAY

LOUISIANA DEPARTMENT OF HEALTH



PERFORMANCE AUDIT SERVICES
DATA ANALYTICS UNIT
ISSUED AUGUST 5, 2020

**LOUISIANA LEGISLATIVE AUDITOR
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**FOR QUESTIONS RELATED TO THIS DATA ANALYTICS UNIT REPORT,
CONTACT CHRIS MAGEE, DATA ANALYTICS MANAGER,
AT 225-339-3800.**

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

August 5, 2020

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives

Dear Senator Cortez and Representative Schexnayder:

This performance audit examined how individual behavioral health service providers bill the state's Medicaid program for their services. The purpose of the audit was to evaluate whether individual providers are complying with Act 370 of the 2019 Regular Session that limits the provision of services to 12 or fewer hours in a calendar day, except in certain circumstances.

We found that between August 1, 2019, and March 9, 2020, 315 individual providers billed for more than 12 hours of combined psychosocial rehabilitation and/or community psychiatric support treatment services in a single calendar day. This improper billing for services in excess of 12 hours totaled at least \$293,080.

The Louisiana Department of Health (LDH) is responsible for ensuring providers do not bill for more than 12 hours in a calendar day. However, LDH relies on the managed care organizations (MCOs) that oversee the Medicaid program to make sure the billed amounts are proper.

We found that it is difficult for the MCOs to monitor provider billings because individual providers may work for more than one MCO, and each MCO only has access to its own claims data. For example, from August 2019 through March 2020, the data showed that 990 (21.8%) out of 4,541 individual behavioral health providers had PSR and CPST claims with one MCO, while 3,551 (78.2%) had PSR and CPST claims with multiple MCOs.

We also found that individual providers are required to bill their services through a business licensed by LDH to provide behavioral health services (business provider). However, business providers are not required to ensure individual providers comply with the 12-hour billing law. We identified 1,364 instances where 128 businesses allowed individuals to bill over 12 hours of services on a single day.

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives
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The report contains our findings, conclusions, and recommendations. Appendix A contains LDH's response to this report, and Appendix B contains our scope and methodology.

I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of LDH for their assistance during this audit.

Sincerely,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

OPH12HOURPLUSBILLING

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Individual Behavioral Health Service Providers Billing More than 12 Hours of Services in a Day Louisiana Department of Health

August 2020

Audit Control #82200004

Introduction

We evaluated whether individual behavioral health providers who provide psychosocial rehabilitation (PSR) and community psychiatric supportive treatment (CPST) services are in compliance with Act 370 of the 2019 Regular Session [enacted as Louisiana Revised Statute (La. R.S.) 46:460.77.1]. Beginning August 1, 2019, this Act limits an individual behavioral health service provider¹ (individual provider) from providing more than 12 hours of services in a calendar day, unless one of the following conditions are met:²

- The medical necessity of the services is documented for a Medicaid recipient who receives more than 12 hours of PSR and/or CPST in one day;
- The services are billed for a group setting (however, the total hours worked by an individual provider shall not exceed 12 hours per calendar day.); or
- The services are billed for crisis intervention or the CPST evidence-based services Homebuilders or Functional Family Therapy.

Psychosocial rehabilitation services assist individuals with skill building, restoration, and rehabilitation. These services are designed to help the individual compensate for, or eliminate the functional deficits and interpersonal and environmental barriers associated with mental illness.

Community psychiatric support and treatment services assist individuals with skill building to restore stability, support functional gains, and adapt to community living. These services are designed to reduce the disability from mental illness, restore functional skills of daily living, and build natural supports and solution-oriented interventions.

Source: La. R.S. 40:2162

Limiting PSR and CPST services to 12 hours per calendar day is an important control to improve the integrity of the behavioral health program. According to the Attorney General's Medicaid Fraud Control Unit (MFCU), this law will help them better investigate and prosecute fraud cases as prior to this law, there was no limitation on the number of hours of PSR or CPST that an individual provider could render in one day. Both MFCU and program integrity staff

¹ The individual behavioral health service provider is the individual who renders (provides) the service to the Medicaid recipient and is not the business through which the service is billed to the MCO. State law requires the individual (rendering) provider obtain an individual national provider identification number which he or she is required to include in all claims submitted to any of the MCOs.

² We excluded all encounters from our analysis which met any of these criteria. In addition, we only included those encounters that were paid at the rate listed on LDH's fee schedule and that were billed as being provided by individual behavioral health providers.

within the five Managed Care Organizations (MCOs) have reported an increase in the number of fraud cases involving PSR and CPST services, including providers billing for services that were never provided. From December 1, 2015, through July 31, 2019, individual providers billed for providing more than 12 hours of services in a calendar day 11,707 times.³ Further, individual service providers billed for providing more than 24 hours of one-on-one services during a single calendar day in 3,144 (26.8%) of these 11,707 instances. For example, an individual provider was paid \$10,021 by one MCO for providing 197.75 hours of PSR and CPST services on May 19, 2017.

In addition, a December 2018 LLA report on LDH's Program Integrity Section⁴ recommended that LDH strengthen its identification of improper payments by analyzing data across all MCOs, such as identifying individual providers who bill for more than 15 hours a day. In that report, we identified 110 individual behavioral health providers who billed more than 15 hours of service on at least one day across two or more MCOs, for a total of \$2,608,946 in Medicaid payments from fiscal years 2012 through 2017.⁵

In this report, we analyzed Medicaid encounter data from August 1, 2019,⁶ through March 9, 2020,⁷ to determine whether individual providers were complying with state law. Our results are summarized below.

Results

From August 1, 2019, through March 9, 2020, we identified 315 individual providers who billed for more than 12 hours of combined PSR and/or CPST services in a single calendar day. These providers improperly billed at least \$293,080⁸ for services provided in excess of 12 hours. According to LDH, although LDH is responsible for ensuring that providers do not bill more than 12 hours of services in a day, LDH relies on the MCOs to ensure that reimbursements comply with state law. However, monitoring compliance with this law is difficult for the MCOs because most behavioral health providers contract with more than one MCO and MCOs only have access to their own claims data. For example, from August 2019 through March 2020, only 990 (21.8%) of 4,541 individual behavioral health providers had PSR and CPST claims with one MCO, while 3,551 (78.2%) individual behavioral health providers had PSR and CPST claims with multiple MCOs. Exhibit 1 shows an example where an individual behavioral health provider billed three MCOs and was paid for providing 31.25 hours

³ This analysis only includes those encounters that would have been subject to La. R.S 46:460.77.1 if they had been provided after August 1, 2019, were paid at the rate listed on LDH's fee schedule, and were billed as being provided by individual behavioral health providers.

⁴ [https://www.la.gov/PublicReports.nsf/6E4D98020230D0378625835A007DE7EA/\\$FILE/0001AE34.pdf](https://www.la.gov/PublicReports.nsf/6E4D98020230D0378625835A007DE7EA/$FILE/0001AE34.pdf)

⁵ In addition to including CPST and PSR services governed by Act 370, the analysis in the December 2018 report also included the evidence based services such as Homebuilders and Functional Family Therapy as well as crisis intervention services that are also excluded from Act 370.

⁶ This is the effective date of the legislation.

⁷ March 9, 2020 is the last date an encounter was submitted in the Medicaid data we obtained for this project.

⁸ Since the start and end times for behavioral health services are not included as a part of the encounters that are sent to LDH by the MCOs, we could not determine which services were rendered after 12 hours of services had been provided. Therefore, we used the lowest cost per service billed by the rendering service provider on each day to calculate the minimum amount of services that were identified by our analysis as being overbilled.

of services in a single day because less than 12 hours of services were billed to each of the MCOs.

Individual behavioral health providers are required to bill their services through a business that is licensed by LDH (business provider). Although business providers are not required by state law to ensure that individual providers do not bill for providing more than 12 hours of services in a single day, it is reasonable to expect the business provider to act as an additional layer of review that should encourage compliance with state law and help prevent individual providers from billing for more than 12 hours of services in a single day through the business provider. However, we identified 1,364 instances where 128 businesses allowed individuals to bill over 12 hours of services on a single day.

Exhibit 1		
Example of One Provider Billing Multiple MCOs on September 26, 2019		
MCO	Hours Billed	Amount Paid
Aetna	11.25	\$608.20
Amerigroup	8.75	557.60
LHCC	11.25	760.40
Total	31.25	\$1,926.20
Source: Prepared by legislative auditor's staff using Medicaid data.		

We also identified 40 individual providers who billed for providing more than 12 hours of services in a single day for 148 days between August 1, 2019, and March 2, 2020. However, the services billed by these individual providers were split among multiple business providers so they did not bill more than 12 hours of services through one business provider on these days. These individual providers are risky because the business providers through which they bill would not be aware that the individual providers were billing for providing more than 12 hours of services in a single day. For example, as shown in Exhibit 2, an individual provider billed for providing 53.75 hours of services through three business providers over the course of three days.

Exhibit 2					
Example of One Provider Billing Through Multiple Business Providers					
Date	Business Provider	Hours Billed	Amount Paid	Total Hours	Total Paid
Monday, October 28, 2019	Business Provider 1	6	\$425.84	20.75	\$1,409.28
	Business Provider 2	9	517.00		
	Business Provider 3	5.75	466.44		
Tuesday, October 29, 2019	Business Provider 1	6	364.96	14	892.16
	Business Provider 2	8	527.20		
Wednesday, October 30, 2019	Business Provider 1	8	527.20	19	1,358.64
	Business Provider 2	7	567.84		
	Business Provider 3	4	263.60		
Totals		53.75	\$3,660.08	53.75	\$3,660.08
Source: Prepared by legislative auditor's staff using Medicaid data.					

While each MCO does not have access to claims data from the other MCOs, each MCO is able to prevent providers from billing more than 12 hours of services in a day within their own network. However, we found that \$108,657 (37.1%) of the \$293,080 of services improperly billed in excess of 12 hours were billed by individual providers to a single MCO in a day. For

example, one provider billed one MCO for allegedly providing 26 hours of services on December 3, 2019, and was paid \$709.52 for the 14 hours of services billed in excess of 12 hours.

As previously stated, state law allows recipients with a documented medical necessity to receive more than 12 hours of services per day. Because of this exception, we analyzed the total hours of service received each day by all recipients.⁹ Of the 43,022 recipients who received at least one PSR or CPST service from August 1, 2019, through March 9, 2020, we identified 22 recipients who received more than 12 hours of services during a single calendar day. LDH stated that no information has been provided by the MCOs to indicate that any of these recipients meet the medical necessity exception.

While the MCOs only have access to their own claims, LDH has access to all claims from all MCOs. Therefore, it is important for LDH to monitor compliance with this state law. However, according to LDH records, LDH has not established an edit check to determine if individual providers are complying with this law. LDH stated that it has not provided guidance to MCOs regarding the MCOs' monitoring strategies for compliance with the law, but did note that it is conducting post-payment reviews of encounter records and notifying MCOs of suspicious records that appear to be billed for more than 12 hours of services in a single day. LDH also stated that when claims span multiple MCOs, it is addressing the overpayments through its Program Integrity Section.

In addition, although the law requires that LDH include these requirements in its contracts with the MCOs, LDH did not include these requirements prior to the approval of the emergency contracts on December 30, 2019. According to LDH, it is not necessary to add this requirement to the contracts because MCOs are required to comply with all state and federal laws, regulations, and policies applicable to the contracts. However, we identified at least 25 instances where the MCO contracts include language requiring compliance with specific state laws. Providing additional guidance to the MCOs, establishing edit checks, and adding this requirement to the MCO contracts would help to ensure compliance with this law.

Recommendation 1: LDH should establish edit checks to ensure that PSR and CPST encounters meet requirements outlined in La. R.S. 46:460.77.1.

Summary of Management's Response: LDH disagreed with this recommendation and stated that a hard edit would result in encounter being inappropriately denied when claims were properly paid by MCOs due to a medical necessity approval.

LLA Additional Comments: Edit checks can be used in a variety of ways, including to "flag" or alert LDH of potentially improper payments. This recommendation does not specify the type of edit check that LDH should establish, rather it recommends that LDH simply establish edit checks to ensure the requirements of state law are met.

⁹ Group services were excluded from our analysis.

Recommendation 2: LDH should include the requirements of La. R.S. 46:460.77.1 in all MCO contracts, emergency or otherwise, as required by this state law.

Summary of Management's Response: LDH disagreed with this recommendation and stated that, per Section 25.0 Terms and Conditions of the MCO contracts, MCOs agree to comply with all state and federal laws, regulations, and policies as they exist or as amended that are or may be applicable to the Contract. LDH further stated that itemizing specific state laws in contracts may result in an unnecessary overburdening of the state contract system.

LLA Additional Comments: As stated in the report, the law specifically requires that LDH include this requirement in the MCO contracts.

Recommendation 3: LDH should issue guidance to the MCOs regarding their monitoring strategies for compliance with La. R.S. 46:460.77.1.

Summary of Management's Response: LDH agreed with this recommendation and stated that it will continue to work with the MCOs to ensure compliance with La. R.S. 46:460.77.1.

APPENDIX A: MANAGEMENT'S RESPONSE



State of Louisiana
Louisiana Department of Health
Office of the Secretary

July 27, 2020

Daryl G. Purpera, CPA, CFE
Legislative Auditor
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Individual Behavioral Health Service Providers Billing more than 12 Hours of Service in a Day

Dear Mr. Purpera:

Thank you for the opportunity to respond to the findings of your Performance Audit report on Individual Behavioral Health Service Providers Billing more than 12 Hours of Service in a Day. The Bureau of Health Services Financing, which is responsible for the administration of the Medicaid program in Louisiana, and the Office of Behavioral Health are committed to ensuring the integrity of the Medicaid program.

We have reviewed the findings and provide the following response to the recommendations documented in the report.

Recommendation 1: LDH should establish edit checks to ensure that PSR and CPST encounters meet requirements outlined in La. R.S. 46:460.77.1.

LDH Response: LDH disagrees with this recommendation. La. R.S. 46:460.77.1 allows for exceptions to the limit of a 12-hour per calendar day, per rendering provider requirement, e.g. medical necessity. Encounter records LDH receives do not include notification of an approved medical necessity exception. Establishing a hard edit would result in encounters being inappropriately denied, when claims were properly paid by MCOs due to a medical necessity approval. In addition, the encounter records LDH receives may or may not be received in the same order the services were rendered. It is appropriate to accept encounters for the first 12 hours of CPST and PSR services, but since the encounter adjudication system doesn't include the time of the service, the encounter edit would potentially deny appropriate encounter records.

The post payment encounter review approach, that LDH is currently executing, avoids unnecessary encounter denials. This approach allows MCOs to work with providers when the issue is just a billing issue (for example, a misunderstanding of

how 1 unit represents 15 minutes of service), allows MCOs to follow up with fraud protocols when appropriate, and allows MCOs to recoup from providers when appropriate on the appropriate claim records. Recouped provider claim records will be reflected in encounter records after appropriate provider dispute processing is completed and after recoupment processing.

Recommendation 2: LDH should include the requirements of La. R.S. 46:460.77.1 in all MCO contracts, emergency or otherwise, as required by this state law.

LDH Response: LDH disagrees with this recommendation. Per Section 25.0 Terms and Conditions of the MCO contracts, MCOs agree to comply with all state and federal laws, regulations, and policies as they exist or as amended that are or may be applicable to the Contract. State laws change over time. Itemizing specific state laws in contracts may require LDH to request formal contract amendments each time a law is modified, resulting in unnecessarily overburdening the state contract system.

Recommendation 3: LDH should issue guidance to the MCOs regarding their monitoring strategies for compliance with La. R.S. 46:460.77.1.


LDH Response: LDH agrees with this recommendation and will continue to work with the MCOs to ensure compliance with La. R.S. 46:460.77.1. MCOs are required by contract to have a fraud, waste and abuse program and are required to monitor as part of that function. MCOs vary in how they operationalize the monitoring activities they employ.

LDH has implemented a quarterly analysis of encounter data to assist in monitoring compliance with La. R.S. 46:460.77.1. Due to the exception conditions established in the law for providing CPST or PSR services past 12 hours per rendering provider, per calendar day, as well as the administrative complexities inherent in services being managed and reimbursed across five different MCOs, LDH is employing two strategies to further monitor compliance. 1) LDH sends encounter extracts to MCOs, where records suggest a possible violation of La. R.S. 46:460.77.1, based on the number of 15-minute units billed exceeding 12 hours per day, per rendering provider. MCOs submit responses to LDH for each occurrence, inclusive of actions taken to ensure compliance with the law. 2) For those instances where the claims for dates with excessive services span multiple MCOs, Program Integrity will address the excessive claims through self-audit letters to the providers. Providers will be instructed to void the claims or otherwise repay those claims that fall outside of the 12-hour limitation. The MCOs will also receive copies of the self-audit letters for awareness.

Individual Behavioral Health Service Providers Billing – 12+ Hours Service Day
Mr. Daryl G. Purpera, CPA, CFE
July 27, 2020
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You may contact Karen Stubbs, Assistant Secretary, Office of Behavioral Health, by telephone at (225) 342-1435 or via email at Karen.Stubbs@la.gov with any questions about this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Phillips', with a long horizontal flourish extending to the right.

Dr. Courtney N. Phillips



Louisiana Legislative Auditor

Checklist for Audit Recommendations

Agency: Louisiana Department of Health
Audit Title: Individual Behavioral Health Service Providers Billing More than 12 Hours of Services in a Day
Audit Report #: 82200004

Instructions to Audited Agency: Please fill in the information below for each finding and recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

Finding 1: From August 1, 2019 through March 9, 2020, we identified 315 individual providers who billed for more than 12 hours of combined PSR and/or CPST services in a single calendar day. These providers improperly billed at least \$293,080 for services provided in excess of 12 hours.	
<i>Recommendation 1: LDH should establish edit checks to ensure that PSR and CPST encounters meet requirements outlined in La. R.S. 46:460.77.1.</i>	
Does Agency Agree with this Recommendation?	Agree <input type="checkbox"/> Disagree <input checked="" type="checkbox"/>
Agency Contact Responsible for Recommendation:	
Name/Title: Karen Stubbs, Assistant Secretary, Office of Behavioral Health	
Address: 628 N. Fourth Street	
City, State, Zip: Baton Rouge, LA 70802	
Phone Number: (225) 342-1435	
Email: Karen.Stubbs@la.gov	
<i>Recommendation 2: LDH should include the requirements of La. R.S. 46:460.77.1 in all MCO contracts, emergency or otherwise, as required by this state law.</i>	
Does Agency Agree with this Recommendation?	Agree <input type="checkbox"/> Disagree <input checked="" type="checkbox"/>
Agency Contact Responsible for Recommendation:	
Name/Title: Karen Stubbs, Assistant Secretary, Office of Behavioral Health	
Address: 628 N. Fourth Street	
City, State, Zip: Baton Rouge, LA 70802	
Phone Number: (225) 342-1435	
Email: Karen.Stubbs@la.gov	
<i>Recommendation 3: LDH should issue guidance to the MCOs regarding their monitoring strategies for compliance with La. R.S. 46:460.77.1.</i>	
Does Agency Agree with this Recommendation?	Agree <input checked="" type="checkbox"/> Disagree <input type="checkbox"/>
Agency Contact Responsible for Recommendation:	
Name/Title: Karen Stubbs, Assistant Secretary, Office of Behavioral Health	

<i>Address: 628 N. Fourth Street</i>
<i>City, State, Zip: Baton Rouge, LA 70802</i>
<i>Phone Number: (225) 342-1435</i>
<i>Email: Karen.Stubbs@la.gov</i>

APPENDIX B: SCOPE AND METHODOLOGY

We conducted this analysis under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This purpose of this analysis was to determine compliance by LDH, MCOs, and providers with certain provisions of R.S. 46:460.77.1 and 46:460.77.2, which requires that an individual provider rendering Psychosocial Rehabilitation Services and Community Psychiatric Support and Treatment Services provided on or after August 1, 2019, be limited to no more than 12 combined hours of these services per calendar day.

The scope of our audit was less than that required by *Government Auditing Standards*. We believe the evidence obtained provides a reasonable basis for our findings and conclusions. To conduct this analysis we performed the following steps:

- Researched relevant federal and state laws, regulations, policy, and guidance regarding R.S. 46:460.77.1 and 46:460.77.2.
- Obtained information from LDH on steps taken to comply with R.S. 46:460.77.1 and 46:460.77.2.
- Analyzed Medicaid claims and encounter data to determine compliance R.S. 46:460.77.1 and 46:460.77.2.