

Audit Report

## Medcare Clinics PLLC

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A Texas Medicaid and CHIP Provider



**Inspector  
General**

Texas Health  
and Human Services

April 29, 2022

OIG Report No. AUD-22-010



# Medcare Clinics PLLC

## A Texas Medicaid and CHIP Provider

### Results in Brief

**Why OIG Conducted This Audit**  
 The Texas Health and Human Services (HHS) Office of Inspector General Audit and Inspections Division (OIG Audit) conducted an audit of telemedicine services provided by Medcare Clinics PLLC (Medcare). During the audit scope, which covered the period from June 1, 2020, through May 31, 2021, Medcare was paid \$182,401 for 1,532 Medicaid and Children’s Health Insurance Program (CHIP) managed care claims for evaluation and management services provided via telemedicine with add-on codes for psychotherapy.

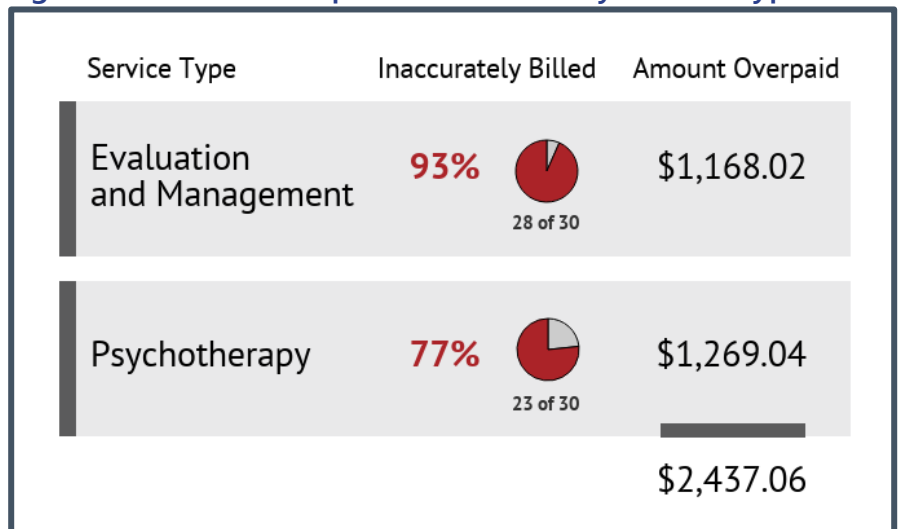
The COVID-19 pandemic prompted an increased use of telemedicine to connect providers with their patients, and the state of Texas adopted waivers and changes to ease technology restrictions and expand the number of Medicaid services available through telemedicine.

OIG Audit initiated this audit of Medcare due to the risk associated with telemedicine claims for evaluation and management with add-on psychotherapy services as these services must be (a) significant and separately identifiable and (b) medical services that would be billable if provided in person.

**Conclusion**  
 Medcare Clinics PLLC (Medcare) provided psychiatric services to its patients via telemedicine; however, Medcare incorrectly billed for services that it provided for evaluation and management and add-on psychotherapy services. As a result, Medcare was overpaid \$2,437.06.

**Key Results**  
 Medcare’s physician and advanced practice nurses, who are licensed to provide medical services in Texas, provided behavioral health services in the same manner as those in a traditional in-person setting as required. However, for 30 claims tested, Medcare did not always bill the appropriate Current Procedural Terminology (CPT) codes based on time duration parameters for telemedicine evaluation and management services with add-on psychotherapy services. As a result of Medcare’s incorrect billing, Medcare received an overpayment of \$2,437.06 for telemedicine evaluation and management services with add-on psychotherapy services. Figure 1 details the amount overpaid to Medcare by service type.

**Figure 1: Amount Overpaid to Medcare by Service Type**



Source: OIG Audit

## Summary of Review

The audit objective was to determine whether telemedicine services provided by Medicare during the COVID-19 waiver period (a) were billed accurately and (b) followed applicable requirements.

The audit scope includes Medicaid and CHIP managed care telemedicine claims paid for evaluation and management services with add-on psychotherapy services for the period from June 1, 2020, through May 31, 2021, as well as a review of relevant internal controls.

## Background

Medicare provides psychiatric, psychological, and counseling services from its office in Houston, Texas. This audit focused on evaluation and management and psychotherapy telemedicine services provided to CHIP members and to Texas Medicaid members through the State of Texas Access Reform (STAR) program.

Telemedicine is a health care service that is (a) delivered by a physician licensed in the state of Texas, or a health care professional acting under the delegation and supervision of a physician licensed in Texas, acting within the scope of the physician's or health care professional's license, (b) provided to a patient at a different physical location than the physician or health care professional, and (c) provided using telecommunications or information technology.

## Management Response

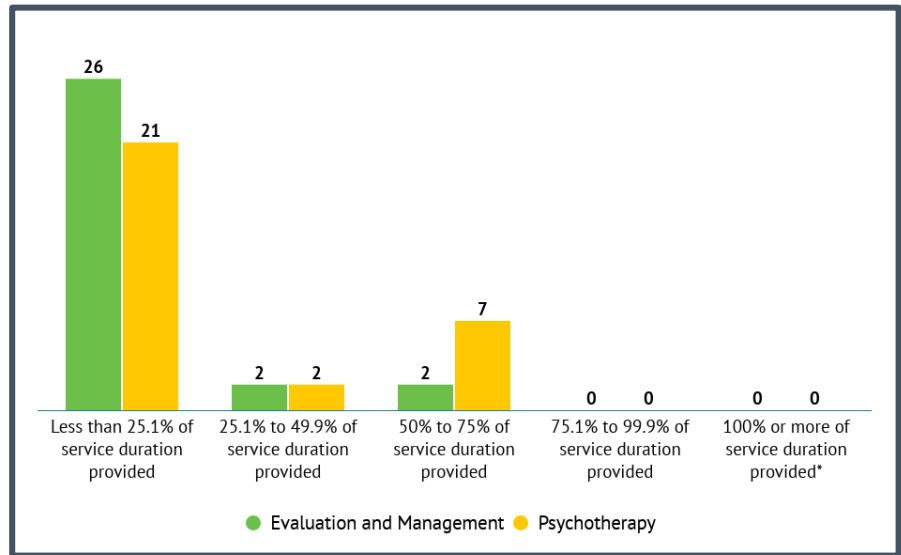
Medicare agreed with the audit recommendations and indicated corrective actions would be fully implemented by May 2022.

For more information, contact:  
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Medicare must return a total of \$2,437.06 to the state of Texas for services that were overpaid.

Figure 2 details the length of each telemedicine visit by percentage compared to CPT time duration parameters. For example, psychotherapy CPT code 90833 has a minimum duration of 16 minutes. If the recorded time spent by the provider on psychotherapy services was 4 minutes, the visit would be identified in Figure 2 as less than 25.1 percent of the required time met during the visit.

**Figure 2: Summary of Telemedicine Visit Durations by Medicare**



\* Telemedicine visits identified as 100 percent or more met or exceeded the identified time duration.

Source: OIG Audit

## Recommendations

In addition to returning \$2,437.06 to the state of Texas, Medicare should implement processes to ensure that (a) claims for services billed as time-based CPT codes are based on the actual length of services provided and (b) medical records include documentation to support the CPT codes billed.

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# Audit Overview

## Overall Conclusion

Medcare Clinics PLLC (Medcare) provided psychiatric services to its patients via telemedicine; however, Medcare incorrectly billed for services that it provided for evaluation and management<sup>1</sup> and add-on psychotherapy services.<sup>2</sup> As a result, Medcare was overpaid and must return a total of \$2,437.06 to the state of Texas.

## Key Audit Results

Medcare's physician and advanced practice nurses, who are licensed to provide medical services in Texas, provided behavioral health services in the same manner as those in a traditional in-person setting as required.<sup>3</sup> However, Medcare did not always bill the appropriate Current Procedural Terminology (CPT) codes<sup>4</sup> based on time duration for telemedicine evaluation and management services with add-on psychotherapy services.<sup>5</sup> As a result of Medcare's incorrect billing, Medcare

### Objective

The audit objective was to determine whether telemedicine services provided by Medcare during the COVID-19 waiver period (a) were billed accurately and (b) followed applicable requirements.

### Scope

The audit scope includes Medicaid and Children's Health Insurance Program (CHIP) managed care telemedicine claims paid for evaluation and management services with add-on psychotherapy services for the period from June 1, 2020, through May 31, 2021, as well as a review of relevant internal controls.

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<sup>1</sup> Evaluation and management services are cognitive services in which a physician or other qualified health care professional diagnoses and treats illness or injury.

<sup>2</sup> Psychotherapy, or talk therapy, is a way to help people with a broad variety of mental illnesses and emotional difficulties.

<sup>3</sup> 22 Tex. Admin. Code § 174.9(1) and (4) (Nov. 26, 2017).

<sup>4</sup> CPT codes are medical codes used primarily to identify medical services procedures furnished by qualified health care professionals.

<sup>5</sup> American Medical Association, *CPT 2020 Professional Edition* (2020) and *CPT 2021 Professional Edition* (2021).

received an overpayment of \$2,437.06 for telemedicine evaluation and management services with add-on psychotherapy services. For the claims in question, evaluation and management and psychotherapy services were not consistently delivered within the time parameters for patients with a variety of mental illnesses and emotional difficulties.

The Texas Health and Human Services (HHS) Office of Inspector General Audit and Inspections Division (OIG Audit) offered recommendations to Medicare, which, if implemented, will help ensure compliance with all applicable requirements.

The “Detailed Audit Results” section of this report presents additional information about the audit results. In addition, audit issues identified in this report may be subject to liquidated damages or OIG administrative enforcement measures,<sup>6</sup> including administrative penalties.<sup>7</sup>

OIG Audit presented preliminary audit results, issues, and recommendations to Medicare in a draft report dated April 13, 2022. Medicare agreed with the audit recommendations and indicated corrective actions would be fully implemented by May 2022. Medicare’s management response is included in the report following the recommendation.

OIG Audit communicated other, less significant issues to Medicare in a separate written communication.

OIG Audit thanks management and staff at Medicare for their cooperation and assistance during this audit.

#### **What Prompted This Audit**

The COVID-19 pandemic prompted an increased use of telemedicine to connect providers with their patients, and the state of Texas adopted waivers and changes to ease technology restrictions and expand the number of Medicaid services available through telemedicine. OIG Audit recognizes the unique challenges that Medicare faced as a result of COVID-19, which occurred during the audit scope period.

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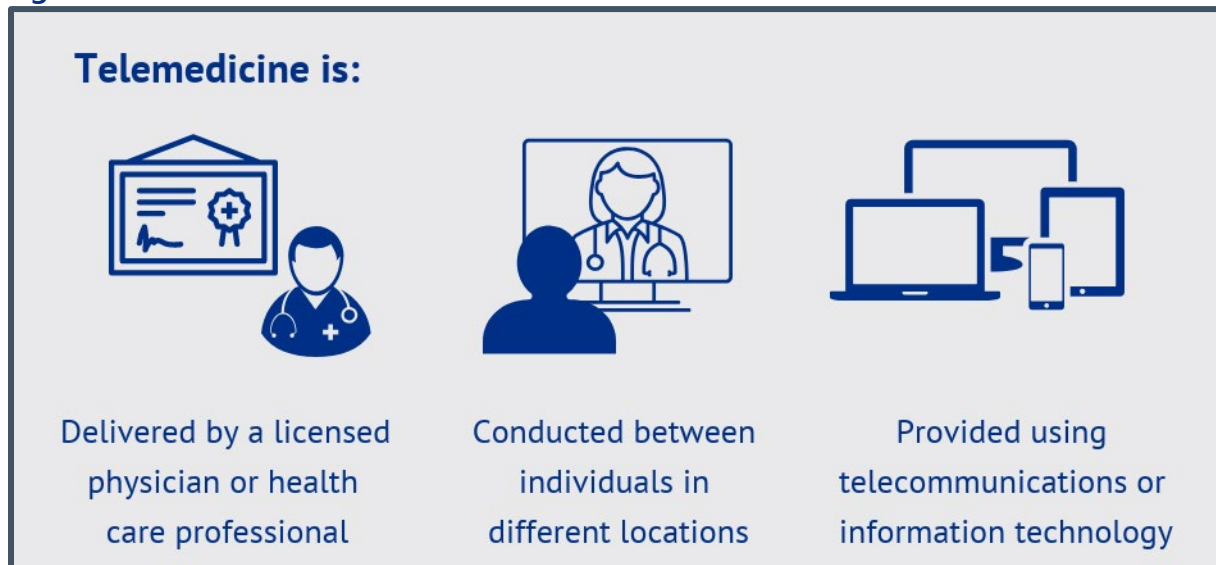
<sup>6</sup> 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

<sup>7</sup> Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).

## Key Program Data

Telemedicine is a health care service that is (a) delivered by a physician licensed in the state of Texas, or a health care professional acting under the delegation and supervision of a physician licensed in Texas, acting within the scope of the physician's or health care professional's license, (b) provided to a patient at a different physical location than the physician or health care professional, and (c) provided using telecommunications or information technology. Figure 1 summarizes the characteristics of telemedicine.

**Figure 1: Characteristics of Telemedicine**



Source: Texas Occupations Code § 111.001(4) (May 27, 2017)

Medicare provides psychiatric, psychological, and counseling services from its office in Houston, Texas. This audit focused on evaluation and management and psychotherapy telemedicine services provided to CHIP members and to Texas Medicaid members through the State of Texas Access Reform (STAR) program.

During the audit scope, which covered the period from June 1, 2020, through May 31, 2021, Medicare was paid \$182,401 for 1,532 Medicaid and CHIP managed care claims for evaluation and management services provided via telemedicine with add-on codes for psychotherapy. Table 1 details the amounts paid to Medicare by service type.

**Table 1: Amount Paid to Medicare for Telemedicine Services by Service Type**

Service Type	Amount
Evaluation and Management	\$ 63,543.30
Psychotherapy	118,857.26
Total	\$182,400.56

Source: OIG Audit

## Auditing Standards

### Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



# Detailed Audit Results

OIG Audit reviewed a sample of 30 paid telemedicine claims for evaluation and management services with add-on psychotherapy services with dates of services from June 1, 2020, through May 31, 2021.

For each claim tested, Medicare had (a) a physician licensed to provide medical services in Texas and (b) provided behavioral health services in the same manner as those in a traditional in-person setting as required.<sup>8</sup>

The following section of this report provides additional detail about the instances of noncompliance identified by OIG Audit.

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<sup>8</sup> 22 Tex. Admin. Code § 174.9(4) (Nov. 26, 2017).

## Chapter 1: Medicare Did Not Always Bill the Appropriate CPT Codes for Evaluation and Management Services and Psychotherapy Services

Medicare's medical records and time stamps from its telemedicine software platform logs did not always support the CPT codes billed based on time duration of services, which resulted in overpayments totaling \$2,437.06. Texas Administrative Code requires that CPT billing codes reported on health insurance claim forms be supported by documentation in the medical record to substantiate the time-based CPT codes billed.<sup>9</sup>

Specifically:

- For 28 of 30 (93.3 percent) claims tested, Medicare's documentation did not support the time spent on evaluation and management<sup>10</sup> services billed.
- For 23 of 30 (76.7 percent) claims tested, Medicare's documentation did not support the time spent on psychotherapy<sup>11</sup> services billed.
  - For 8 of these 23 (34.8 percent) claims, the patient was not present during the appointment. Evaluation and management services without a patient present is allowable, but it is not allowable for psychotherapy service.<sup>12</sup>

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<sup>9</sup> 22 Tex. Admin. Code § 165.1(a)(9) (Nov. 10, 2019).

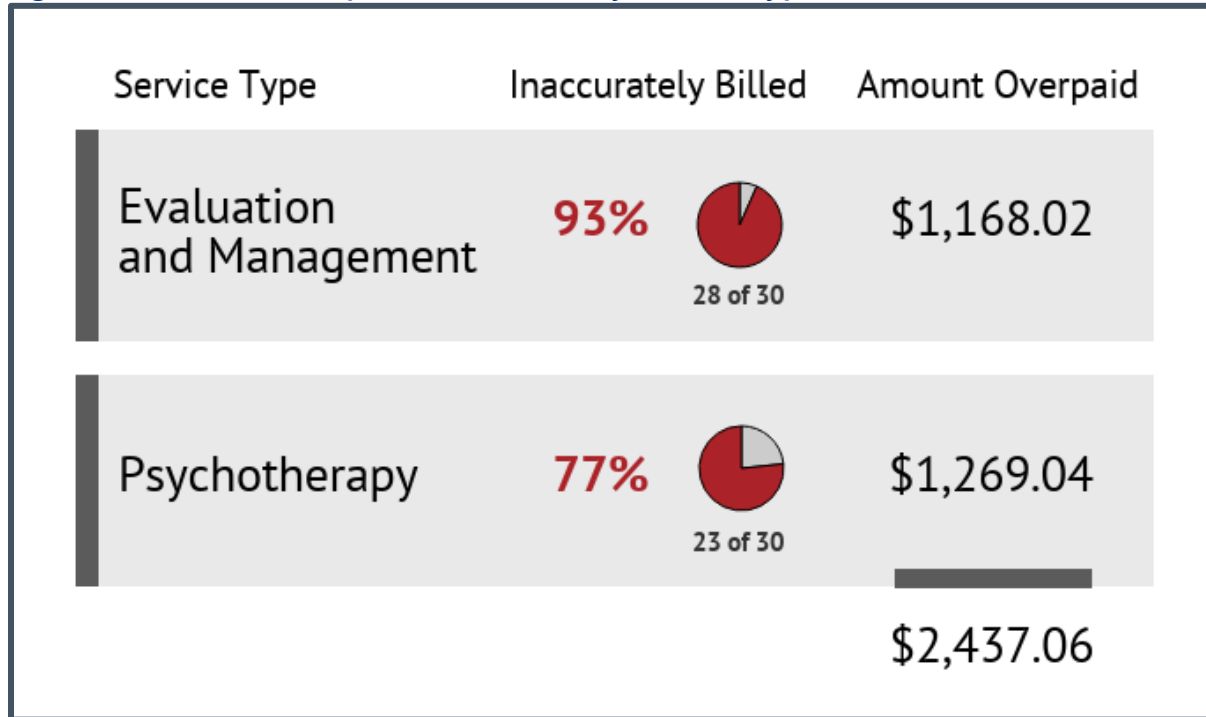
<sup>10</sup> Prior to January 1, 2021, evaluation and management services did not have a minimum time but used a "typical" time determination. OIG Audit used the identified "typical" time plus a 50 percent time buffer for testing claims prior to January 1, 2021, for evaluation and management services.

<sup>11</sup> Prior to and after January 1, 2021, psychotherapy services had a minimum time requirement for services. OIG Audit used the minimum time requirement plus a 50 percent time buffer for testing claims prior to and after January 1, 2021, for psychotherapy services.

<sup>12</sup> The American Medical Association requires patients to be present for 51 percent or more of the service to charge for psychotherapy. American Medical Association, *CPT 2020 Professional Edition* (2020) and *CPT 2021 Professional Edition* (2021).

Figure 2 details the amount overpaid to Medicare by service type.

**Figure 2: Amount Overpaid to Medicare by Service Type**



Source: OIG Audit

Table 2 summarizes the time duration parameters for the evaluation and management and psychotherapy CPT codes utilized by Medicare for the claims tested.

**Table 2: Time Duration Parameters and Rates by CPT Code**

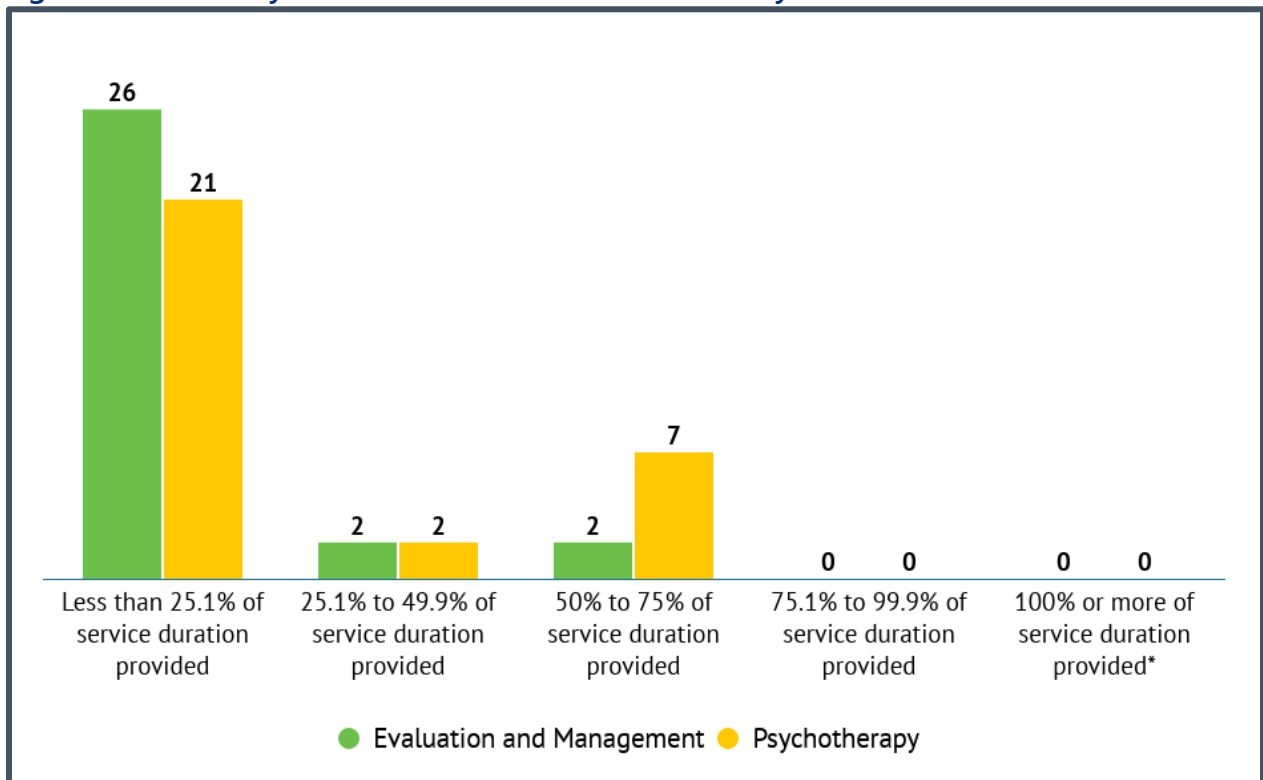
CPT Code	Time Duration (Mar. 1, 2020 – Dec. 31, 2020)	Time Duration (Effective Jan. 1, 2021)	Client Ages 0-20 Rate
Evaluation and Management (99214)	25 minutes	30–39 minutes	\$51.80
Evaluation and Management (99215)	40 minutes	40–54 minutes	79.75
Psychotherapy (90833)	16–37 minutes	16–37 minutes	55.29

Source: American Medical Association, *CPT 2020 Professional Edition* (2020) and *CPT 2021 Professional Edition* (2021) and Texas Medicaid and Healthcare Partnership, “Texas Medicaid Fee Schedule – Physician” (Apr. 15, 2020, though Apr. 15, 2021)

Medicare did not always conduct telemedicine visits for evaluation and management and psychotherapy services within the time duration parameters of the CPT code billed. For the purposes of this audit, exceptions identified for recovery represent instances when the time identified within Medicare’s medical records and telemedicine software platform logs did not support at least 50 percent of the time duration identified by the CPT code applied for either evaluation and management services or psychotherapy services. To determine the recoupment amount, OIG Audit utilized another CPT code’s rate, when one was eligible, to offset the original payment received by Medicare.

Figure 3 details the length of each telemedicine visit by percentage compared to CPT time duration parameters. For example, psychotherapy CPT code 90833 has a minimum duration of 16 minutes. If the recorded time spent by the provider on psychotherapy services was 4 minutes, the visit would be identified in Figure 3 as less than 25.1 percent of the required time met during the visit.

**Figure 3: Summary of Telemedicine Visit Durations by Medicare**



\* Telemedicine visits identified as 100 percent or more met or exceeded the identified time duration.

Source: OIG Audit

Medcare's incorrect billing occurred because it did not have adequate controls in place to ensure application of appropriate time-based CPT codes for the evaluation and management services and psychotherapy services provided.

### **Recommendation 1**

In addition to returning \$2,437.06 to the state of Texas, Medcare should implement processes to ensure that (a) claims for services billed as time-based CPT codes are based on the actual length of services provided and (b) medical records include documentation to support the CPT codes billed.

#### **Management Response**

##### **Action Plan**

Medcare Clinics agrees to return \$2,437.06 to the state of Texas and to begin implementation of evaluation and management and psychotherapy documentation in medical records to support the time spent with each patient and bill the appropriate CPT code.

##### **Responsible Manager**

Clinical Supervisor

##### **Target Implementation Date**

May 1, 2022

## Appendix A: Objective, Scope, and Criteria

### Objective and Scope

The audit objective was to determine whether telemedicine services provided by Medicare during the COVID-19 waiver period (a) were billed accurately and (b) followed applicable requirements.

The audit scope includes Medicaid and CHIP managed care telemedicine claims paid for evaluation and management services with add-on psychotherapy services for the period from June 1, 2020, through May 31, 2021, as well as a review of relevant internal controls.

### Criteria

OIG Audit used the following criteria to evaluate the information provided:

- 22 Tex. Admin. Code §§ 165.1 (2019), 174.4 (2017), 174.8 (2017), and 174.9 (2017)
- American Medical Association, *CPT 2020 Professional Edition* (2020) and *CPT 2021 Professional Edition* (2021)
- Texas Medicaid and Healthcare Partnership, "Texas Medicaid Fee Schedule – Physician" (2020 through 2021)

## Appendix B: Methodology and Data Reliability

OIG Audit issued an engagement letter to Medicare on November 19, 2021, to provide information about the audit and conducted fieldwork from November 19, 2021, through February 24, 2022.

To accomplish the audit objective, auditors conducted interviews with Medicare's management and staff and reviewed supporting documentation, including but not limited to, appointment schedules, telemedicine software logs, and progress notes.<sup>13</sup>

OIG Audit reviewed a sample of 30 paid telemedicine claims for evaluation and management services with add-on psychotherapy services with dates of service from June 1, 2020, through May 31, 2021. After an initial assessment of Medicaid and CHIP claims paid to Medicare, OIG Audit selected non-statistical samples, though random and risk-based selections, related to the provision and billing of evaluation and management services and psychotherapy services, ensuring a combination of higher and lower complexity codes were included in the sample. The samples could not be projected to the population.

OIG Audit also reviewed Medicare's key controls for documenting and maintaining progress notes, including components of internal control,<sup>14</sup> within the context of the audit objective.

### Data Reliability

OIG Audit determined that the data used in this audit was sufficiently reliable for the purposes of the audit.

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<sup>13</sup> "Progress notes" are ongoing records of a patient's illness and treatment.

<sup>14</sup> For more information on the components of internal control, see the United States Government Accountability Office's *Standards for Internal Control in the Federal Government*, (Sept. 2014), <https://www.gao.gov/assets/gao-14-704g.pdf> (accessed Apr. 16, 2021).

## Appendix C: Related Reports

- The Center for Comprehensive Mental Health: A Texas Medicaid Provider, [AUD-22-007](#), April 19, 2022



## Appendix D: Resources for Additional Information

The following resources provide additional information about the topics covered in this report.

### **For more information on psychiatric services delivered via telemedicine:**

"What is Telepsychiatry," American Psychiatric Association,  
<https://psychiatry.org/patients-families/telepsychiatry> (accessed Apr. 13, 2022)

### **For more information on Medicare Clinics PLLC:**

Homepage, Medicare Clinics, <https://medicareclinicstx.com/> (accessed Feb. 10, 2022)

## Appendix E: Report Team and Distribution

### Report Team

OIG staff members who contributed to this audit report include:

- Kacy J. VerColen, CPA, Deputy Inspector General of Audit and Inspections
- Parsons Townsend, CIA, CFE, CGAP, CCEP, Audit Director
- Joel Brophy, CIA, CFE, CRMA, CICA, Audit Director
- Melissa Larson, CIA, CISA, CFE, HCISPP, Senior Managing Auditor
- James Hicks, CISA, Senior Auditor
- Aleah Mays-Williams, Staff Auditor
- Annalisa Adams, Associate Auditor
- Brad Etnyre, CIA, CGAP, Quality Assurance Reviewer
- Ashley Rains, CFE, Senior Audit Operations Analyst

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- Stephanie Stephens, Chief Medicaid and CHIP Services Officer, Medicaid and CHIP Services

- Emily Zalkovsky, Deputy State Medicaid Director, Medicaid and CHIP Services
- Shannon Kelley, Deputy Executive Commissioner for Managed Care
- Dana L. Collins, Interim Deputy Executive Commissioner for Operations, Medicaid and CHIP Services

#### **Medcare Clinics PLLC**

- Dr. Ifeoma Arene, MD, Medical Director, Medcare Clinics PLLC
- Shanay Green, Clinical Supervisor

## Appendix F: OIG Mission, Leadership, and Contact Information

The mission of OIG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of OIG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Inspector General
- Audrey O'Neill, Principal Deputy Inspector General, Chief of Audit and Inspections
- Susan Biles, Chief of Staff, Chief of Policy and Performance
- Erik Cary, Interim Chief Counsel
- Christine Maldonado, Chief of Operations and Workforce Leadership
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