

# Audit Report

## The Center for Comprehensive Mental Health

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A Texas Medicaid Provider



**Inspector  
General**

Texas Health  
and Human Services

April 19, 2022

OIG Report No. AUD-22-007



# The Center for Comprehensive Mental Health

## A Texas Medicaid 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 the Center for Comprehensive Mental Health (the Center). During the audit scope, which covered the period from June 1, 2020, through May 31, 2021, the Center was paid \$21,158 for 307 Medicaid 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 the Center 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.

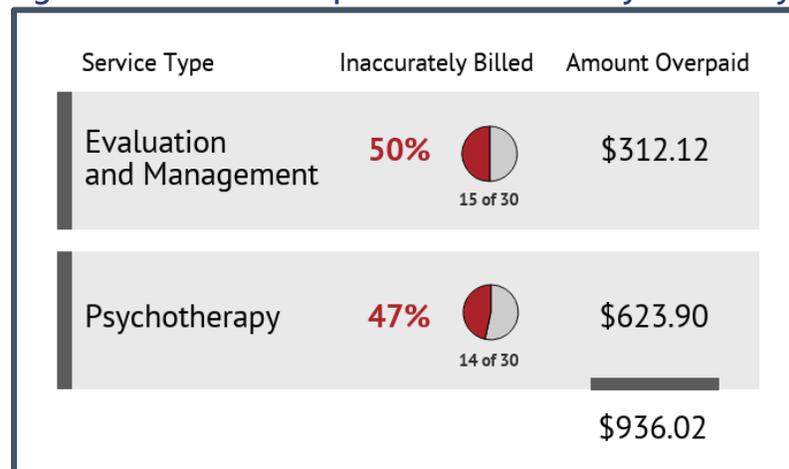
#### Conclusion

The Center for Comprehensive Mental Health (the Center) provided psychiatric services to its patients via telemedicine; however, the Center incorrectly billed for services that it provided for evaluation and management and add-on psychotherapy services. As a result, the Center was overpaid \$936.02. Additionally, the Center did not provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment as required.

#### Key Results

The Center’s physician, who is 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, the Center 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 the Center’s incorrect billing, the Center received an overpayment of \$936.02 for telemedicine evaluation and management services with add-on psychotherapy services. Figure 1 details the amount overpaid to the Center by service type.

**Figure 1: Amount Overpaid to the Center by Service Type**



Source: OIG Audit

## Summary of Review

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

The audit scope includes Medicaid 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

The Center provides psychiatric, psychological, and counseling services from its office in McAllen, Texas. This audit focused on evaluation and management and psychotherapy telemedicine services provided to Texas Medicaid members through the State of Texas Access Reform (STAR), STAR Kids, and STAR+PLUS programs.

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

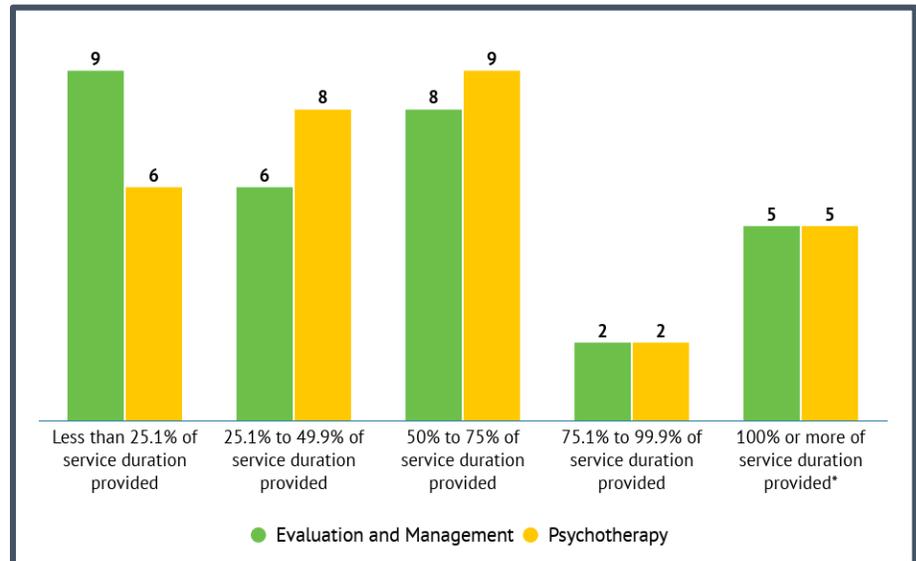
The Center agreed, although it considered the interpretation strict, and indicated corrective actions would be fully implemented by December 2022.

For more information, contact:  
[OIGAuditReports@hhs.texas.gov](mailto:OIGAuditReports@hhs.texas.gov)

The Center must return a total of \$936.02 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 the Center**



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

Source: OIG Audit

In addition, for 29 claims tested, the Center did not provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment via telemedicine services as required.

## Recommendations

In addition to returning \$936.02 to the state of Texas, the Center 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.

Additionally, the Center should provide patients with written or electronic notification of its privacy practices prior to evaluation or treatment via telemedicine services.

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# Audit Overview

## Overall Conclusion

The Center for Comprehensive Mental Health (the Center) provided psychiatric services to its patients via telemedicine; however, the Center 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, the Center was overpaid and must return a total of \$936.02 to the state of Texas. Additionally, the Center did not provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment as required.<sup>3</sup>

## Key Audit Results

The Center's physician, who is 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>4</sup> However, the Center did not always bill the appropriate Current Procedural Terminology (CPT) codes<sup>5</sup> based on time duration for telemedicine evaluation and

### Objective

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

### Scope

The audit scope includes Medicaid 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 § 174.4(1) (Nov. 26, 2017).

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

<sup>5</sup> CPT codes are medical codes used primarily to identify medical services and procedures furnished by qualified health care professionals.

management services with add-on psychotherapy services.<sup>6</sup> As a result of the Center’s incorrect billing, the Center received an overpayment of \$936.02 for telemedicine evaluation and management services with add-on psychotherapy services.

In addition, the Center did not provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment via telemedicine services as required. As a result, the Center’s patients may be unaware of risks to unauthorized access to their sensitive and confidential information.

The Texas Health and Human Services (HHS) Office of Inspector General Audit and Inspections Division (OIG Audit) offered recommendations to the Center, 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>7</sup> including administrative penalties.<sup>8</sup>

OIG Audit presented preliminary audit results, issues, and recommendations to the Center in a draft report dated March 24, 2022. The Center agreed with the audit recommendations, although it considered the interpretation strict, and indicated corrective actions would be fully implemented by December 2022. The Center’s management responses are included in the report following each recommendation.

#### **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 the Center faced as a result of COVID-19, which occurred during the audit scope period.

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<sup>6</sup> American Medical Association, *CPT 2020 Professional Edition* (2020) and *CPT 2021 Professional Edition* (2021).

<sup>7</sup> 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

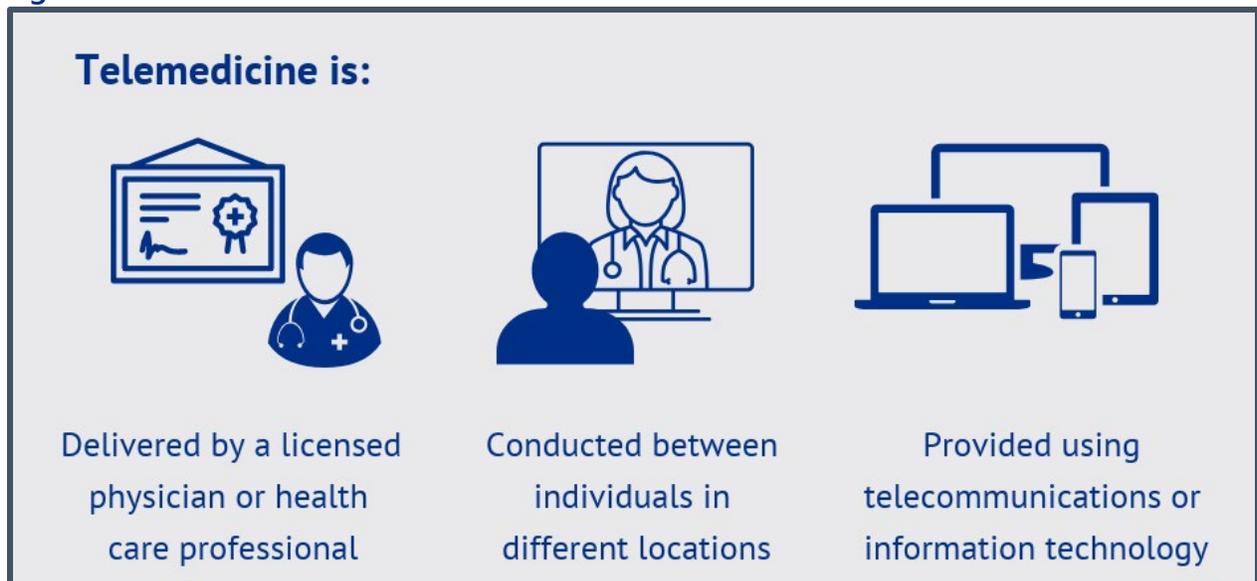
<sup>8</sup> Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).

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

## 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)

The Center provides psychiatric, psychological, and counseling services from its office in McAllen, Texas. This audit focused on evaluation and management and psychotherapy telemedicine services provided to Texas Medicaid members through the State of Texas Access Reform (STAR), STAR Kids, and STAR+PLUS programs.

During the audit scope, which covered the period from June 1, 2020, through May 31, 2021, the Center was paid \$21,158 for 307 Medicaid managed care claims for evaluation and management services provided via telemedicine with add-on codes for psychotherapy. Table 1 details the amounts paid to the Center by service type.

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

Service Type	Amount
Evaluation and Management	\$11,923.57
Psychotherapy	9,234.84
Total	\$21,158.41

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, the Center 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>9</sup>

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

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<sup>9</sup> 22 Tex. Admin. Code § 174.9(4) (Nov. 26, 2017).

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

The Center'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 \$936.02. 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>10</sup>

Specifically, for 15 of 30 (50.0 percent) claims tested, the Center's documentation did not support the time spent on evaluation and management<sup>11</sup> services billed. For 14 of 30 (46.7 percent) claims tested, the Center's documentation did not support the time spent on psychotherapy<sup>12</sup> services billed. Figure 2 on the following page details the amount overpaid to the Center by service type.

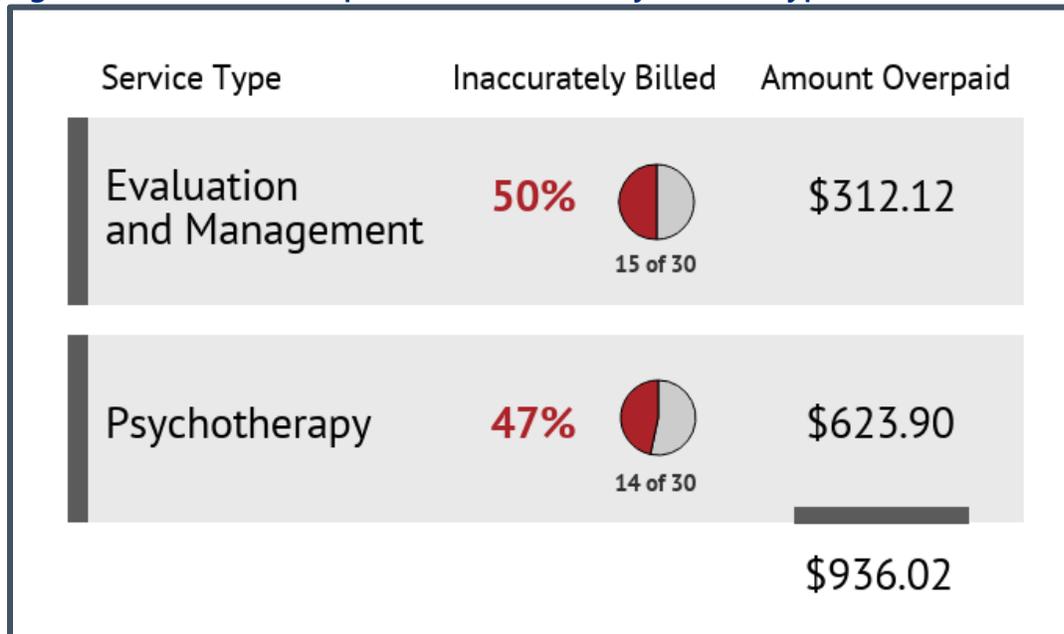
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<sup>10</sup> 22 Tex. Admin. Code § 165.1(a)(9) (Nov. 10, 2019).

<sup>11</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>12</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.

**Figure 2: Amount Overpaid to the Center by Service Type**



Source: OIG Audit

Table 2 summarizes the time duration parameters for the evaluation and management and psychotherapy CPT codes utilized by the Center 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)	Rate
Evaluation and Management (99213)	15 minutes	20–29 minutes	\$33.27
Evaluation and Management (99214)	25 minutes	30–39 minutes	46.73
Psychotherapy (90833)	16–37 minutes	16–37 minutes	52.66
Psychotherapy (90836)	38–52 minutes	38–52 minutes	66.56

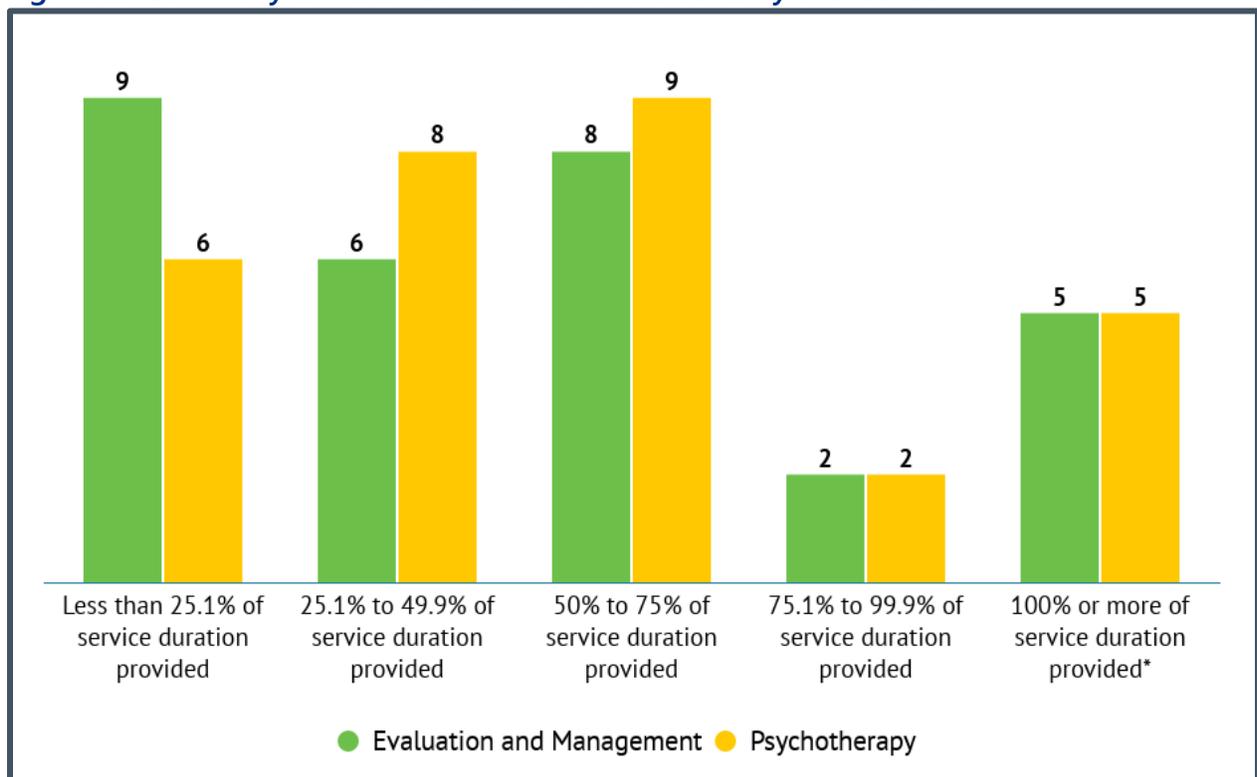
Source: American Medical Association, *CPT 2020 Professional Edition* (2020) and *CPT 2021 Professional Edition* (2021) and Texas Medicaid and Healthcare Partnership, “Texas Medicaid Fee Schedule – Physician” (Apr. 15, 2020, through Apr. 15, 2021)

The Center 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 the Center’s medical records and telemedicine software platform logs did not support at least 50 percent of the time duration identified by the CPT code billed 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 the Center.

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 the Center**



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

The Center’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 \$936.02 to the state of Texas, the Center 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

The Center for Comprehensive Mental Health agrees to return \$936.02 to the state of Texas and has since begun the process of modifying our billing of telemedicine visits to match the time limits set by the CPT since being informed of the preliminary audit results.

As a board-certified psychiatrist and a Distinguished fellow of the American Psychiatric Association, I [Dr. Fructuoso Irigoyen, M.D.] have been practicing adult psychiatry, working with Medicaid patients, in the Rio Grande Valley since 1987. I can proudly say that most of my patients rarely, if at all, are hospitalized which has saved the Medicaid program over the years many thousands of dollars.

As expressed to the auditors, the results appear based on a strict interpretation of the CPT coding and billing guidelines and primarily on telemedicine software platform time duration logs which don't account for instances in which video connection were either interrupted or disconnected in where the service was continued over the telephone or device chat.

The auditors have assured me that these considerations as I had presented to them were factored in their report. Further, we were unaware that time spent on psychotherapy could not be simultaneous with the evaluation and management time or that the time duration was a strict minimum requirement. For both evaluation and management and psychotherapy services the Center rounded the time of each service to the nearest CPT code available.

### Action Plan

We are modifying our billing of visits to match the limits set by CPT. The Center started implementation of this process since the preliminary audit results informed us of the issue.

Claim reviews will be performed by April 30, 2022, June 29, 2022 and December 26, 2022 to ensure 100% compliance with the CPT billing Guidelines.

### **Responsible Managers**

Insurance Clerk supervised the Office Manager

Medical Director

### **Target Implementation Dates**

- April 30, 2022 – 30 Day Claim Review
- June 29, 2022 – 90 Day Claim Review
- December 26, 2022 – 180 Day Claim Review

## Chapter 2: The Center Did Not Notify Patients About Its Privacy Practices

For all 29 claims tested for which the Center was required to provide notice of its privacy practices, the Center did not provide patients with required written or electronic notification of its privacy practices prior to evaluation or treatment via telemedicine services.

Physicians that communicate with patients by electronic communications other than telephone or facsimile must provide patients with written or electronic notification of the physicians' privacy practices prior to evaluation or treatment via a telemedicine medical service.<sup>13</sup> The Center asserted that its privacy practices were (a) implied and understood by its patients and (b) sufficient given its long and ongoing relationship with the patients.

By not notifying its patients of its privacy practices, the Center did not comply with privacy requirements. As a result, the Center's patients may be unaware of risks to unauthorized access to their sensitive and confidential information.

### Recommendation 2

The Center should provide patients with written or electronic notification of its privacy practices prior to evaluation or treatment via telemedicine services.

#### Management Response

We believed that the patient signing the form required to bill the insurance companies that contain an authorization for release of information to doctors, adjustors and insurance companies implied that all medical or psychological information shared by or to the patient was strictly confidential.

The audit team made me aware that we must give specific written or email notice of privacy or confidentiality to our patients regarding the use of telemedicine services.

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<sup>13</sup> 22 Tex. Admin. Code § 174.4(1) (Nov. 26, 2017).

All or most of the patients in the audit sample received a paper copy of our privacy policy but this has not been done recently and not at all since patients started receiving services through video or telephone conferences.

### **Action Plan**

1. Review the existing Privacy Practices Notice, English and Spanish versions.
2. Update information (telephone number for privacy officer, add information about telemedicine services)
3. Prepare list of patients who can be reached for this purpose via e-mail
4. Prepare electronic Privacy Practice to be sent to patients of whom we have e-mail addresses. English and Spanish.
5. Reach out for those patients not reached via e-mail or those not acknowledging receipt of the notice.
6. Especially at returning to in-person services make the policy available at registration for an appointment.

### **Responsible Managers**

Office Manager

Medical Director

### **Target Implementation Dates**

- April 15, 2022 – Review of existing policy to be completed.
- April 30, 2022 – Preparation of electronic document and document to be sent to patients whose encounters were audited.
- May 30, 2022 – Deliver electronic privacy practice document to all patients seen by telemedicine (video conferencing).

## Appendix A: Objective, Scope, and Criteria

### Objective and Scope

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

The audit scope includes Medicaid 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 the Center on November 17, 2021, to provide information about the audit and conducted fieldwork from November 17, 2021, through February 24, 2022.

To accomplish the audit objective, auditors conducted interviews with the Center's management and staff and reviewed supporting documentation, including but not limited to, appointment schedules, telemedicine software logs, and progress notes.<sup>14</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 claims paid to the Center, OIG Audit selected non-statistical samples through random and risk-based selections. The samples of CPT codes associated with the paid claims were related to the provision and billing of evaluation and management services and psychotherapy services and consisted of (a) one sample of higher-complexity CPT codes and (b) a second sample of lower-complexity CPT codes. The samples could not be projected to the population.

OIG Audit also reviewed the Center's key controls for documenting and maintaining progress notes, including components of internal control,<sup>15</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>14</sup> "Progress notes" are ongoing records of a patient's illness and treatment.

<sup>15</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: 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)

## Appendix D: 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

### Report Distribution

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- Cecile Erwin Young, Executive Commissioner
- Kate Hendrix, Chief of Staff
- Maurice McCreary, Jr., Chief Operating Officer
- Jordan Dixon, Chief Policy and Regulatory Officer
- Karen Ray, Chief Counsel
- Michelle Alletto, Chief Program and Services Officer
- Nicole Guerrero, Chief Audit Executive
- 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

#### **The Center for Comprehensive Mental Health**

- Dr. Fructuoso Irigoyen, MD, DLFAPA, Medical Director, The Center for Comprehensive Mental Health
- Josefina Irigoyen, Office Manager
- Sylvia Contreras, Insurance Clerk

## Appendix E: 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
- Steve Johnson, Chief of Investigations and Reviews

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- Phone: 1-800-436-6184

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- Email: [OIGCommunications@hhs.texas.gov](mailto:OIGCommunications@hhs.texas.gov)
- Mail: Texas Health and Human Services  
Office of Inspector General  
P.O. Box 85200  
Austin, Texas 78708-5200
- Phone: 512-491-2000