

Audit Report

Baylor Scott & White Health

A Texas Medicaid Provider

November 29, 2023

OIG Report No. AUD-24-002



**Inspector
General**

Texas Health
and Human Services



Baylor Scott & White Health

A Texas Medicaid Provider

Results in Brief

Why OIG Conducted This Audit

The Texas Health and Human Services (HHS) Office of Inspector General (OIG) Audit and Inspections Division (OIG Audit) conducted an audit of teleservices provided by Baylor Scott & White Health (BSW). During the audit scope, which covered the period from June 1, 2021, through December 31, 2021, BSW was paid \$144,800 for 1,887 Texas Medicaid managed care claims for evaluation and management, psychiatry, psychotherapy, and facility fees provided via teleservices.

OIG Audit initiated this audit of BSW due to the increased risk associated with teleservices claims for evaluation and management, psychiatry, and psychotherapy services caused by the increase in teleservices provided during the COVID-19 public health emergency.

Summary of Review

The audit objective was to determine whether (a) teleservices provided by BSW were billed accurately and in accordance with applicable requirements and (b) related internal controls over teleservices were designed and operating effectively.

The audit scope included Texas Medicaid managed care teleservices claims paid for evaluation and management, psychiatry, and psychotherapy services for the period from June 1, 2021, through December 31, 2021.

Conclusion

Baylor Scott & White Health (BSW) provided behavioral health services to its patients via teleservices; however, BSW (a) double billed for some behavioral health teleservices, (b) billed facility fees for services it did not provide, and (c) incorrectly billed for some psychotherapy services. As a result, BSW was overpaid and should repay a total of \$45,412.50 to the state of Texas. Additionally, for 3 of 88 cases, BSW did not provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment as required.

Key Results

BSW's physicians, physician assistants, and advanced practice nurses—who were all licensed to provide medical services in Texas—provided behavioral health services through a teleservices model. For each sample item tested, BSW retained medical records to support that a behavioral health teleservice was provided to the patient. However, BSW incorrectly billed for some behavioral health teleservices. Specifically, BSW incorrectly billed RightCare from Scott & White Health Plan by:

- Double billing for 470 behavioral health teleservices, totaling \$30,239.33.
- Billing 183 facility fees for services, totaling \$13,628.92.

Additionally, BSW did not always bill the appropriate Current Procedural Terminology (CPT) codes based on time duration for psychotherapy teleservices. BSW received an overpayment of \$1,544.25 for 30 of 95 behavioral health teleservices tested. For the services in question, psychotherapy was not consistently delivered within the time parameters for patients with a variety of mental illnesses and emotional difficulties.

Background

The COVID-19 public health emergency prompted an increased use of teleservices to connect providers with their patients. Between state fiscal years 2019 and 2021, the number of Texas Medicaid teleservices increased from 1.1 million in 2019 to 7.2 million in 2021. The state of Texas adopted waivers and changes to ease technology restrictions and expand the number of Medicaid services available through teleservices in response to the public health emergency.

Telemedicine and telehealth services are health care services that are (a) delivered by a physician or a health care professional licensed, certified, or otherwise eligible to practice in Texas, (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

OIG Audit presented preliminary audit results, issues, and recommendations to BSW in a draft report dated October 13, 2023. BSW agreed with the audit recommendations and indicated corrective actions would be implemented by June 2024. Management responses from BSW are included in the report following each recommendation.

Further, BSW did not separately identify evaluation and management and add-on psychotherapy services for 28 of 79 behavioral health teleservices tested. In its medical records for these services, BSW either recorded the service times as the total time it spent on both evaluation and management and add-on psychotherapy combined or did not record any time spent with the patient. As a result, BSW's medical records did not distinctly identify the amount of time it spent providing add-on psychotherapy services to its patients.

In addition, BSW was unable to demonstrate it provided required privacy practice notification to 3 of 88 patients included in audit testing. As a result, BSW's patients may be unaware of risks to unauthorized access of their sensitive and confidential information.

Recommendations

BSW should:

- Implement processes to (a) align its billing processes with Texas Medicaid rules and (b) limit billing to allowable services that it provided to Texas Medicaid patients.
- Implement processes to ensure that (a) claims for services billed as time-based CPT codes are based on the actual length of services provided, (b) medical records include documentation to support the CPT codes billed, and (c) medical records separately identify services provided.
- Provide its patients with written or electronic notification of its privacy practices prior to evaluation or treatment via telemedicine services and document the notification was provided.

Additionally, BSW was overpaid and should repay \$45,412.50 to the state of Texas.

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Audit Overview

Overall Conclusion

Baylor Scott & White Health (BSW) provided behavioral health services to its patients via teleservices;⁴ however, BSW (a) double billed for some behavioral health teleservices, (b) billed facility fees⁵ for services it did not provide, and (c) incorrectly billed for some psychotherapy services. As a result, BSW was overpaid and should repay a total of \$45,412.50 to the state of Texas. Additionally, for 3 of 88 cases, BSW did not provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment as required.

Key Audit Results

BSW's physicians, physician assistants, and advanced practice nurses—who were all licensed to provide medical services in Texas—provided behavioral health services through a teleservices model. For each sample item tested, BSW retained medical records to support that a behavioral health teleservice was provided to the patient. However, BSW incorrectly billed for some behavioral health

Objective

The audit objective was to determine whether (a) teleservices provided by BSW were billed accurately and in accordance with applicable requirements and (b) related internal controls over teleservices were designed and operating effectively.

Scope

The audit scope included Texas Medicaid managed care teleservices claims paid for evaluation and management,¹ psychiatry,² and psychotherapy services³ for the period from June 1, 2021, through December 31, 2021.

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

² Psychiatry services include the diagnosis and treatment of mental illnesses.

³ Psychotherapy, or talk therapy, is a way to treat and help people with a variety of mental illnesses and behavioral disturbances.

⁴ Teleservices include telemedicine, telehealth, audio-only, and home telemonitoring services. This report focuses on telemedicine and telehealth.

⁵ Facility fees are charged by the patient site provider, which assists the patient with connecting to a provider at a distant site that is rendering the medical service.

teleservices. Specifically, BSW incorrectly billed RightCare from Scott & White Health Plan (RightCare)⁶ by:

- Double billing for 470 behavioral health teleservices, totaling \$30,239.33.
- Billing 183 facility fees for services, totaling \$13,628.92.

Additionally, BSW did not always bill the appropriate Current Procedural Terminology (CPT) codes⁷ based on time duration for psychotherapy teleservices. BSW received an overpayment of \$1,544.25 for 30 of 95 behavioral health teleservices tested. For the services in question, psychotherapy was not consistently delivered within the time parameters for patients with a variety of mental illnesses and emotional difficulties.

Further, BSW did not separately identify evaluation and management and add-on psychotherapy services for 28 of 79 behavioral health teleservices tested.⁸ In its medical records for these services, BSW either recorded the service times as the total time it spent on both evaluation and management and add-on psychotherapy combined or did not record any time spent with the patient. As a result, BSW's medical records did not distinctly identify the amount of time it spent providing add-on psychotherapy services to its patients.

What Prompted This Audit

OIG Audit initiated this audit of BSW due to the increased risk associated with teleservices claims for evaluation and management, psychiatry, and psychotherapy services caused by the increase in teleservices provided during the COVID-19 public health emergency.

In addition, BSW was unable to demonstrate it provided required privacy practice notification to 3 of 88 patients included in audit testing. As a result, BSW's patients may be unaware of risks to unauthorized access of their sensitive and confidential information.

⁶ RightCare from Scott & White Health Plan is the Medicaid managed care brand name for Scott & White Health Plan.

⁷ CPT codes are medical codes used primarily to identify medical services procedures furnished by qualified health care professionals.

⁸ Add-on codes are CPT codes for services that are commonly carried out in conjunction with a primary procedure. For purposes of this report, "add-on" refers specifically to psychotherapy codes—including 90833, 90836, and 90838—which are delivered with an evaluation and management service.

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

The “Detailed Audit Results” section of this report presents additional information about the audit results and is considered written education in accordance with Texas Administrative Code.⁹ In addition, audit issues identified in this report may be subject to liquidated damages or OIG administrative enforcement measures,¹⁰ including administrative penalties.¹¹

OIG Audit presented preliminary audit results, issues, and recommendations to BSW in a draft report dated October 13, 2023. BSW agreed with the audit recommendations and indicated corrective actions would be implemented by June 2024. Management responses from BSW are included in the report following each recommendation.

OIG Audit recognizes the unique challenges that BSW faced as a result of the COVID-19 public health emergency, which was present during the audit scope period. OIG Audit thanks management and staff at BSW for their cooperation and assistance during this audit.

Key Program Data

The COVID-19 public health emergency prompted an increased use of teleservices to connect providers with their patients. Between state fiscal years 2019 and 2021, the number of Texas Medicaid teleservices increased from 1.1 million in 2019 to 7.2 million in 2021. The state of Texas adopted waivers and changes to ease technology restrictions and expand the number of Medicaid services available through teleservices in response to the public health emergency. Table 1 on the following page provides additional details about the use of Texas Medicaid teleservices.

⁹ 1 Tex. Admin. Code § 371.1701 (May 1, 2016).

¹⁰ 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

¹¹ Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).

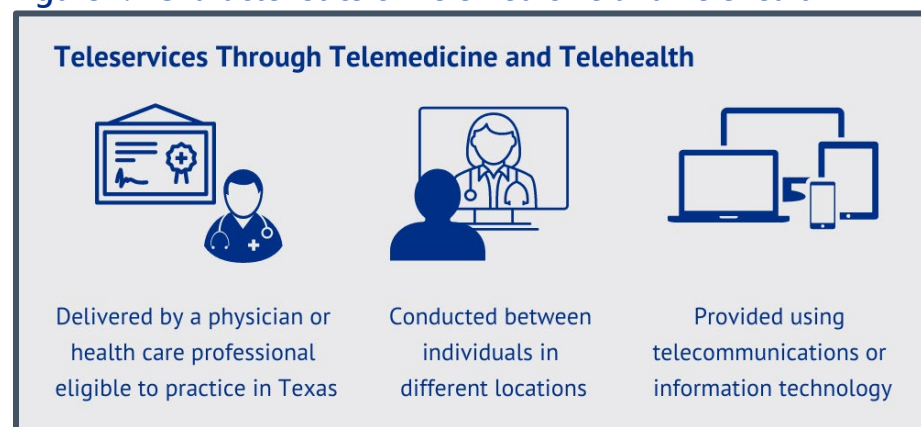
Table 1: Use of Teleservices in Texas Medicaid by State Fiscal Year

Service Type	2019	2020	2021
Telemedicine	242,857	2,311,544	3,771,298
Telehealth	16,651	1,559,644	2,898,657
Home telemonitoring	864,407	447,459	363,708
Audio-only	—	77,117	126,642
Total	1,123,915	4,395,764	7,160,305

Source: Texas Health and Human Services, *Telemedicine, Telehealth, and Home Telemonitoring Services in Texas Medicaid* (Dec. 2020) and Texas Health and Human Services, *Telemedicine, Telehealth, and Home Telemonitoring in Texas Medicaid* (Dec. 2022).

Telemedicine and telehealth services are health care services that are (a) delivered by a physician or a health care professional licensed, certified, or otherwise eligible to practice in Texas, (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.^{12,13} Figure 1 summarizes the characteristics of telemedicine and telehealth.

Figure 1: Characteristics of Telemedicine and Telehealth



Source: Texas Occupations Code § 111.001(3–4) (May 27, 2017, through Sept. 1, 2021)

¹² Telemedicine is a medical service delivered by a physician or a health care professional under delegation and supervision of a physician. Telehealth is a health service that is (a) separate from a telemedicine medical service or teledentistry service and (b) delivered by a health care professional, who is not a physician or under supervision of a physician, acting within the scope of the health care professional’s license, certification, or entitlement.

¹³ Tex. Occ. Code § 111.001 (May 27, 2017, and Sept. 1, 2021).

Teleservices provide additional access to care options for Texas Medicaid recipients, and providers are paid the same amount for health care services delivered through telemedicine, telehealth, and in-person visits. Common diagnoses among patients receiving teleservices include mental, behavioral, and neurodevelopmental disorders.

BSW, a Texas Medicaid health care system, has clinics that deliver behavioral health and counseling services in Texas. During the audit scope, which covered the period from June 1, 2021, through December 31, 2021, the four BSW clinics reviewed provided services to patients enrolled with four managed care organizations (MCOs): Blue Cross and Blue Shield of Texas, RightCare, Superior HealthPlan, Inc., and UnitedHealthcare Insurance Company, Inc. BSW was paid \$144,800 for 1,887 Texas Medicaid managed care claims for evaluation and management, psychiatry, psychotherapy, and facility fees provided via teleservices. Table 2 details the amounts paid to BSW by service type and MCO.

Table 2: Amount Paid to BSW for Teleservices by Service Type and MCO¹⁴

MCO	Evaluation and Management	Psychiatry and Psychotherapy	Facility Fees
Blue Cross Blue Shield of Texas	\$ 12,851	\$ 4,826	\$ 2,310
RightCare	32,423	37,151	14,342
Superior Health Plan	6,396	5,221	396
UnitedHealthcare	17,885	9,450	1,549
Total	\$69,555	\$56,648	\$18,597

Source: OIG Audit

This audit focused on evaluation and management, psychiatry, and psychotherapy teleservices BSW provided to Texas Medicaid patients through RightCare’s administration of the STAR program.

¹⁴ In Table 2, evaluation and management includes CPT codes 99204, 99205, 99212, 99213, 99214, 99215, and 99243; psychiatry and psychotherapy include CPT codes 90791, 90792, 90832, 90833, 90834, 90836, 90837, 90838, 90846, and 90847; and facility fees include CPT code Q3014.

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 behavioral health teleservices with dates of service during the period from June 1, 2021, through December 31, 2021. For each sample item tested, BSW (a) had an individual licensed to provide medical services in Texas and (b) retained medical records to support a behavioral health teleservice was provided to the patient.

However, BSW double billed for some behavioral health teleservices, billed for facility fees for services it did not provide, and incorrectly billed for some psychotherapy services. As a result, BSW should repay a total of \$45,412.50 to the state of Texas.

Additionally, in some cases, BSW did not (a) differentiate and separately identify services provided during the same session or (b) provide its patients with written or electronic privacy practice notifications prior to evaluation or treatment as required.

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

Chapter 1: BSW Billed for Services Not Provided

BSW incorrectly billed RightCare for 653 services that were not provided at three BSW clinics, which resulted in overpayments totaling \$43,868.25 Specifically, BSW:

- Double billed for 470 behavioral health teleservices, totaling \$30,239.33.
- Incorrectly billed 183 facility fees, totaling \$13,628.92.

Table 3 details the unallowable amounts RightCare paid to BSW by service type.

Table 3: Unallowable Amounts Paid to BSW for Services Not Provided at Three BSW Clinics

BSW Clinic	Evaluation and Management	Psychiatry and Psychotherapy	Add-On Psychotherapy	Facility Fees
Clinic A	\$16,142.20	\$4,583.33	\$8,449.67	\$13,628.92
Clinic B	31.08	34.57	51.64	—
Clinic C	81.77	814.46	50.61	—
Total	\$16,255.05	\$5,432.36	\$8,551.92	\$13,628.92

Source: OIG Audit

Double Billing for Behavioral Health Teleservices

BSW incorrectly billed RightCare for 97 Texas Medicaid behavioral health teleservices. For each of these 97 services, BSW billed both a professional claim and an institutional claim, resulting in double billing and an overpayment amount of \$6,182.74. BSW acknowledged the 97 services billed as institutional claims were unallowable under Texas Medicaid and indicated its billing process incorrectly allowed submission of both institutional and professional claims for the same service even though an institutional service had not been provided.

OIG Audit determined that BSW’s billing processes resulted in systemic billing of both professional and institutional claims for the same services. Through a review of related behavioral health teleservices claims that BSW billed using the same process, OIG Audit identified an additional 373 instances of systemic overbilling

for unallowable institutional claims and an overpayment amount of \$24,056.59.¹⁵ As a result, BSW billed Texas Medicaid \$30,239.33. Table 4 provides additional details about the number and amount of BSW's double-billed behavioral health teleservices.

Table 4: BSW's Double-Billed Behavioral Health Teleservices

Behavioral Health Teleservice	Sampled Services		Systemic Services	
	Number	Amount	Number	Amount
Evaluation and management	48	\$3,388.92	179	\$ 12,866.13
Psychiatry and psychotherapy	16	1,255.18	45	4,177.18
Add-on psychotherapy	33	1,538.64	149	7,013.28
Total	97	\$6,182.74	373	\$24,056.59

Source: OIG Audit

Billing for Services Not Provided: Facility Fees

BSW billed RightCare \$3,525.12 for 47 unallowable facility fees at one clinic. If the patient is located at an alternate provider's facility when receiving teleservices, the alternate provider may be reimbursed with a facility fee for serving as the patient site.^{16,17} For the 47 tested facility fees, BSW's medical records did not support that the patients were located at any of BSW's facilities when receiving teleservices. BSW acknowledged the 47 facility fees were unallowable under Texas Medicaid and indicated its billing process was incorrectly using Medicare rules for Medicaid claims.

OIG Audit determined that BSW's billing processes resulted in systemic billing for unallowable facility fees. Through a review of related behavioral health teleservices claims that BSW billed using the same process, OIG Audit identified

¹⁵ OIG Audit did not review medical records for the systemic double billing but provided the claims information to BSW as representation of each issue occurring beyond the original 97 sample items originally tested.

¹⁶ Texas Medicaid Provider Procedures Manual, Vol. 2, "Telecommunication Services Handbook," § 3.3.3 (June 2021 through Dec. 2021).

¹⁷ The patient site is the location where the patient is physically located. For purposes of telemedicine medical services, the patient site may be the patient's home.

an additional 136 instances of systemic billing for unallowable facility fees, totaling \$10,103.80.¹⁸ As a result, BSW billed Texas Medicaid \$13,628.92 in unallowable facility fees. Table 5 provides additional details about the number and amount of unallowable facility fees BSW billed under Texas Medicaid for patients receiving behavioral health teleservices.

Table 5: Unallowable Facility Fees BSW Billed Under Texas Medicaid

Service	Sampled Services		Systemic Services	
	Number	Amount	Number	Amount
Facility fees	47	\$3,525.12	136	\$10,103.80

Source: OIG Audit

Recommendation 1

In addition to returning \$43,868.25 to the state of Texas, BSW should implement processes to (a) align its billing processes with Texas Medicaid rules and (b) limit billing to allowable services that it provided to Texas Medicaid patients.

Management Response

Action Plan

During the COVID-19 public health emergency, the Centers for Medicare and Medicaid Services (CMS) instructed providers, such as BSW, to bill facility fees for teleservices even when the patient was at home and not a distant site. BSW followed this guidance for all government payors including Texas Medicaid.

As a result of this audit, BSW identified Texas Medicaid did not follow this guidance and/or adopt a similar waiver. Therefore, BSW corrected its billing processes and no longer bills for institutional claims and/or facility fees for services provided to Texas Medicaid patients via teleservices.

¹⁸ OIG Audit did not review medical records for the systemic facility fees but provided the claims information to BSW as representation of each issue occurring beyond the original 47 sample items originally tested.

Further, BSW is developing a plan to update the current processes or develop a secondary control process to monitor compliance on a periodic basis for Medicaid / Managed Medicaid claims.

Responsible Managers

- Vice President, General Counsel, Regulatory and Legal Risk Compliance Operations
- Interim Chief Corporate Ethics and Compliance Officer
- Vice President, Corporate Ethics and Compliance
- Vice President, Patient Financial Services

Target Implementation Dates

- Change in billing process – May 8, 2023
- Planning to be completed – January 1, 2024

Chapter 2: BSW Did Not Always Bill the Correct CPT Codes for Psychotherapy Services

BSW’s medical records and time stamps from its teleservices software platform logs did not always support the CPT codes billed based on time duration of services, which resulted in overpayments totaling \$1,544.25. Texas Administrative Code requires that CPT billing codes reported on health insurance claim forms be supported by the medical records to substantiate the time-based CPT codes billed.¹⁹

BSW’s incorrect billing occurred because it did not have adequate controls in place to correctly apply time-based CPT codes for the psychotherapy services it provided.

Unsupported Psychotherapy Time

Providers should use the appropriate CPT code based on the duration of time spent providing psychotherapy to a patient. Table 6 summarizes the minimum time duration for the psychotherapy CPT codes BSW used for the services tested.

Table 6: Time Duration Parameters by Service and CPT Code

Service	Psychotherapy CPT Code	Minimum Time Duration
Psychotherapy (30 minutes)	90832	16 minutes
Psychotherapy (30 minutes) with evaluation and management	90833	16 minutes
Psychotherapy (45 minutes)	90834	38 minutes
Psychotherapy (45 minutes) with evaluation and management	90836	38 minutes
Psychotherapy (60 minutes)	90837	53 minutes
Family psychotherapy without patient present (50 minutes)	90846	26 minutes
Family psychotherapy with patient present (50 minutes)	90847	26 minutes

Source: American Medical Association, *CPT 2021 Professional Edition* (2021)

¹⁹ 22 Tex. Admin. Code § 165.1(a)(9) (Nov. 10, 2019).

These psychotherapy services (a) are limited to face-to-face care, which requires the patient be present,²⁰ and (b) have a minimum duration. Further, providers may not bill for any psychotherapy services lasting less than 16 minutes.²¹

For 30 of 95 (31.6 percent) psychotherapy teleservices tested, BSW's medical records indicated it spent less than the required amount of time with the patient.²² For 28 of these 30 services, BSW spent less than 16 minutes of total time with the patient, which was the minimum duration required to bill for the service. As a result, BSW was overpaid \$1,544.25 for these 30 unallowable psychotherapy teleservices.

Example of Unsupported Psychotherapy Time

For one behavioral health teleservices visit, BSW billed RightCare for a 30-minute add-on psychotherapy service in conjunction with an evaluation and management service; however, the associated medical records indicated BSW provided 12 minutes of total treatment time to the patient for the two services. RightCare paid BSW (a) \$51.64 for the add-on psychotherapy service, which was unallowable because it did not reach the minimum duration of 16 minutes, and (b) \$31.72 for the evaluation and management service.

Evaluation and Management and Add-On Psychotherapy Services in Medical Records

When evaluation and management is provided in conjunction with add-on psychotherapy, providers select evaluation and management CPT codes based on the level of medical decision making.^{23,24} These

An add-on CPT code is used for a service that is performed in conjunction with another primary service by the same practitioner.

²⁰ CPT code 90846 is for family psychotherapy services and has a minimum time duration of 26 minutes. These sessions are conducted with the patient's family while the patient is not present.

²¹ American Medical Association, *Medicine Guidelines – Psychiatry, CPT 2021 Professional Edition* (2021).

²² One of the 30 psychotherapy teleservices was billed under CPT code 90846.

²³ American Medical Association, *Evaluation and Service Management (E/M) Service Guidelines, CPT 2021 Professional Edition* (2021).

²⁴ Beginning in 2021, the American Medical Association allowed providers to select evaluation and management codes based on medical decision making or time spent on the date of the encounter; however, providers may not use time as the basis for selecting an evaluation and management CPT code when such service is provided in conjunction with psychotherapy.

CPT codes do not require a specific amount of face-to-face time with the patient; however, evaluation and management must include some face-to-face time with the patient.²⁵ Additionally, when evaluation and management and add-on psychotherapy services are provided together, (a) the two services must be significant and separately identifiable²⁶ and (b) providers may not use time associated with providing an evaluation and management service to support the add-on psychotherapy service.²⁷

BSW did not separately identify evaluation and management and add-on psychotherapy services for 28 of 79 (35.4 percent) behavioral health teleservices tested. In its medical records for these services, BSW either recorded the service times as the total time it spent on both evaluation and management and add-on psychotherapy combined or did not record any time spent with the patient. As a result, BSW's medical records did not distinctly identify the amount of time BSW spent providing add-on psychotherapy services to its patients.

Recommendation 2

In addition to returning \$1,544.25 to the state of Texas, BSW 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, (b) medical records include documentation to support the CPT codes billed, and (c) medical records separately identify services provided.

Management Response

Action Plan

BSW has provided education to its behavioral health providers regarding documentation requirements. Further, BSW has reiterated to its providers the use of BSW's preferred teleservices platform that is integrated within BSW's electronic medical record (EMR) and helps track required information. Further,

²⁵ American Medical Association, Evaluation and Service Management (E/M) Service Guidelines, *CPT 2021 Professional Edition* (2021).

²⁶ American Medical Association, Medicine Guidelines – Psychiatry, *CPT 2021 Professional Edition* (2021).

²⁷ American Medical Association, Medicine Guidelines – Psychiatry, *CPT 2021 Professional Edition* (2021).

BSW is monitoring through June 2024 to verify appropriate billing of these types of claims.

Responsible Managers

- Vice President, General Counsel, Regulatory and Legal Risk Compliance Operations
- Interim Chief Corporate Ethics and Compliance Officer
- Vice President, Corporate Ethics and Compliance
- Interim Chair, Department of Psychiatry
- Director, Operations
- Director, Billing, Regulatory and Physician Coding Compliance
- Vice President, Telemedicine

Target Implementation Dates

- Education provided – December 2022 through October 2023
- Monitoring complete – June 30, 2024

Chapter 3: BSW Did Not Always Notify Patients About Its Privacy Practices

For 3 of 88 (3.4 percent) patients included in audit testing, BSW was unable to demonstrate that it provided notification of its privacy practices prior to the start of telemedicine evaluation or treatment.

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.²⁸

When BSW does not notify its patients of its privacy practices, BSW patients may be unaware of risks to unauthorized access of their sensitive and confidential information.

Recommendation 3

BSW should provide its patients with written or electronic notification of its privacy practices prior to evaluation or treatment via telemedicine services and document the notification was provided.

Management Response

Action Plan

BSW has reviewed and improved its process to provide the required teleservices notices to patients. Further, BSW has reiterated to its staff the use of BSW's preferred teleservices platform and e-check in process that is integrated within BSW's EMR, which provides the required notices during each teleservices visit as well as providing auditing and monitoring functions.

Further, BSW is monitoring through June 2024 to verify appropriate billing of these types of claims.

²⁸ 22 Tex. Admin. Code § 174.4(1) (Nov. 26, 2017).

Responsible Managers

- Vice President, General Counsel, Regulatory and Legal Risk Compliance Operations
- Interim Chief Corporate Ethics and Compliance Officer
- Vice President, Corporate Ethics and Compliance
- Director, Billing, Regulatory and Physician Coding Compliance
- Vice President, Telemedicine

Target Implementation Dates

- Education provided – December 2022 through October 2023
- Monitoring to be complete – June 30, 2024

Appendix A: Objective, Scope, and Criteria

Objective and Scope

The audit objective was to determine whether (a) teleservices provided by BSW were billed accurately and in accordance with applicable requirements and (b) related internal controls over teleservices were designed and operating effectively.

The audit scope included Texas Medicaid managed care teleservices claims paid for evaluation and management, psychiatry, and psychotherapy services for the period from June 1, 2021, through December 31, 2021.

Criteria

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

- Tex. Occ. Code § 111.001 (2017 and 2021)
- 1 Tex. Admin. Code § 352.5 (2012)
- 22 Tex. Admin. Code §§ 165.1 (2019), 174.2 (2017), 174.4 (2017), and 174.9 (2017)
- Texas Medicaid Provider Procedures Manual, Vol. 2, "Telecommunication Services Handbook," § 3.3.3 (2021)
- American Medical Association, *CPT 2021 Professional Edition* (2021)

Appendix B: Methodology and Data Reliability

OIG Audit issued an engagement letter to BSW on December 20, 2022, to provide information about the audit and conducted fieldwork from December 20, 2022, through July 27, 2023.

To accomplish the audit objective, auditors conducted interviews with BSW's management and staff and reviewed supporting documentation, including but not limited to, appointment schedules, teleservices software logs, and progress notes.²⁹

OIG Audit also gained an understanding of BSW's controls for documenting and maintaining progress notes, including components of internal control,³⁰ within the context of the audit objective.

Testing for Compliance with Applicable Statutes, Rules, and Procedures

OIG Audit examined paid teleservices claims for the period from June 1, 2021, through December 31, 2021. After an initial assessment, OIG Audit performed testing on a population of paid claims for patients who received evaluation and management, psychiatry, or psychotherapy services.

The audit objective included verifying whether teleservices were billed accurately for 1,001 claims; therefore, OIG Audit used a statistical sampling approach. During the audit scope, RightCare paid BSW for 1,001 Texas Medicaid managed care claims totaling \$82,597.

Sampling and Systemic Issues

OIG Audit tested behavioral health teleservice visits selected using RAT-STATs software from the claims population for RightCare. The sample was designed to be representative of the population; therefore, it is appropriate to project the results of the sample to the population. The population included 1,001 paid

²⁹ "Progress notes" are ongoing records of a patient's illness and treatment.

³⁰ 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).

claims at four different BSW clinics. Table B.1 details the sampled and total claims tested at each BSW clinic.

Table B.1: Number of BSW Claims Tested

BSW Clinic	Sampled Claims	Total Claims
Clinic A	111	474
Clinic B	124	507
Clinic C	0	9
Clinic D	0	11
Total	235	1,001

Source: OIG Audit

During its initial review of the selected sample items, OIG Audit recognized systemic issues present in the sample and population. OIG Audit identified all instances of the systemic issues in the population and did not extrapolate the results of the audit.

Data Reliability

To assess the reliability of data provided by BSW, OIG Audit (a) compared the paid claims data to supporting documentation assessed as part of the audit and (b) interviewed staff who were knowledgeable about the data. BSW provided medical progress notes and records from the video software it used to conduct teleservices visits. Auditors determined that these were the best sources of data available for the purposes of the audit and were sufficiently reliable for the purpose of the audit.

Appendix C: Related Reports

- The PsyClinic: A Texas Medicaid Provider, [AUD-23-026](#), August 18, 2023
- Medicare Clinics PLLC: A Texas Medicaid Provider, [AUD-22-010](#), April 29, 2022
- 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 teleservices:

"What is Telepsychiatry," American Psychiatric Association,
<https://psychiatry.org/patients-families/telepsychiatry> (accessed Mar. 3, 2023)

For more information about Baylor Scott & White Health:

Homepage, Baylor Scott & White Health, <https://www.bswhealth.com/>
(accessed June 5, 2023)

For more information on RightCare:

Homepage, RightCare, <https://rightcare.swhp.org/en-us/>
(accessed June 5, 2023)

For more information on Blue Cross Blue Shield of Texas:

Homepage, Blue Cross Blue Shield of Texas, <https://www.bcbstx.com/>
(accessed June 5, 2023)

For more information on Superior HealthPlan:

Homepage, Superior HealthPlan, <https://www.superiorhealthplan.com/>
(accessed June 5, 2023)

For more information on the UnitedHealth Group, Inc.:

Homepage, UnitedHealth Group, <https://www.unitedhealthgroup.com/>
(accessed Mar. 15, 2023)

Appendix E: Report Team and Distribution

Report Team

OIG staff members who contributed to this audit report include:

- Anton Dutchover, CPA, Deputy Inspector General of Audit and Inspections
- Sarah Corinne Warfel, CPA, CISA, Audit Director
- Daniel Graf, CISA, Audit Project Manager
- Julia Youssefnia, CPA, Senior Auditor
- Shaun Craig, Staff Auditor
- Sarah Ady, Staff Auditor
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Report Distribution

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- Margaret von Sehrwald, Vice President, Corporate Ethics and Compliance and Interim Chief Corporate Ethics and Compliance Officer
- W. Alan Barker, Vice President, General Counsel, Regulatory and Legal Risk Compliance Operations

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:

- Raymond Charles Winter, Inspector General
- Kacy J. VerColen, Chief of Audit and Inspections
- Diane Salisbury, Chief of Data Reviews
- Susan Biles, Chief of Staff, Chief of Policy and Performance
- Erik Cary, Chief Counsel
- Matt Chaplin, Chief of Operations
- Steve Johnson, Chief of Investigations and Utilization Reviews

To Obtain Copies of OIG Reports

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To Report Fraud, Waste, and Abuse in Texas HHS Programs

- Online: <https://oig.hhs.texas.gov/report-fraud-waste-or-abuse>
- Phone: 1-800-436-6184

To Contact OIG

- Email: oig.generalinquiries@hhs.texas.gov
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