



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – Issued March 15, 2019

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## Office of Medicaid (MassHealth)—Review of Claims Paid for Services Provided by Liberty Adult Day Health For the period January 1, 2016 through December 31, 2017





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March 15, 2019

Mr. Aleksandr Kuzmin  
Liberty Adult Day Health  
25 South Street, Unit F  
Hopkinton, MA 01748

Dear Mr. Kuzmin:

I am pleased to provide this performance audit of Liberty Adult Day Health. This report details the audit objective, scope, methodology, findings, and recommendations for the audit period, January 1, 2016 through December 31, 2017. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to Liberty Adult Day Health for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular background.

Suzanne M. Bump  
Auditor of the Commonwealth

cc: Marylou Sudders, Secretary, Executive Office of Health and Human Services  
Daniel Tsai, Assistant Secretary and Director, Office of Medicaid  
Alda Rego, Assistant Secretary for Administration and Finance, Executive Office of Health and Human Services  
Susan Harrison, Director of Program Integrity, Office of Medicaid  
Joan Senatore, Director of MassHealth Compliance, Office of Medicaid  
Teresa Reynolds, Executive Assistant to Secretary Sudders

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## LIST OF ABBREVIATIONS

ACO	accountable care organization
ADH	adult day health
ADL	activity of daily living
ASAP	Aging Services Access Point
CMR	Code of Massachusetts Regulations
MMIS	Medicaid Management Information System
OSA	Office of the State Auditor
PCA	personal care attendant
SCO	senior care organization

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## EXECUTIVE SUMMARY

The Office of the State Auditor (OSA) receives an annual appropriation for the operation of a Medicaid Audit Unit to help prevent and identify fraud, waste, and abuse in the Commonwealth's Medicaid program. This program, known as MassHealth, is administered under Chapter 118E of the Massachusetts General Laws by the Executive Office of Health and Human Services, through the Division of Medical Assistance. Medicaid is a joint federal-state program created by Congress in 1965 as Title XIX of the Social Security Act. At the federal level, the Centers for Medicare & Medicaid Services, within the US Department of Health and Human Services, administer the Medicare program and work with state governments to administer state Medicaid programs.

OSA has conducted an audit of MassHealth claims for adult day health (ADH) services paid to Liberty Adult Day Health for the period January 1, 2016 through December 31, 2017. During this period, MassHealth paid Liberty approximately \$1,356,967 to provide ADH services for 72 MassHealth members. The purpose of this audit was to determine whether Liberty obtained the required physician orders and clinical authorizations for ADH services for each MassHealth member.

The audit was conducted as part of OSA's ongoing independent statutory oversight of the state's Medicaid program. Our previously issued audit reports have disclosed significant weaknesses in MassHealth's claim-processing system and improper billing practices by MassHealth providers, which resulted in millions of dollars in potentially improper claim payments. As with any government program, public confidence is essential to the success and continued support of the state's Medicaid program.

Below is a summary of our findings and recommendations, with links to each page listed.

<b>Finding 1</b> <b>Page 8</b>	Liberty did not properly document physician orders in member records to support ADH services it billed, totaling \$32,407.
<b>Recommendations</b> <b>Page 9</b>	<ol style="list-style-type: none"><li>1. Liberty should collaborate with MassHealth to repay the \$32,407 discussed in this finding.</li><li>2. Liberty should develop internal control policies and procedures to ensure that completed and authorized physician orders are in place before it provides ADH services to MassHealth members.</li></ol>

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<b>Finding 2</b> <b>Page <u>10</u></b>	Liberty did not always obtain physician orders detailing the assistance with activities of daily living that members required.
<b>Recommendation</b> <b>Page <u>10</u></b>	Liberty should develop policies and procedures for the review of physician orders to ensure that these orders contain the necessary information to develop adequate care plans for MassHealth members.

## OVERVIEW OF AUDITED ENTITY

Under Chapter 118E of the Massachusetts General Laws, the Executive Office of Health and Human Services, through the Division of Medical Assistance, administers the state's Medicaid program, known as MassHealth. MassHealth provides access to healthcare services to approximately 1.9 million low- and moderate-income children, families, seniors, and people with disabilities annually. In fiscal year 2017, MassHealth paid more than \$15 billion to healthcare providers, of which approximately 50% was funded by the Commonwealth. Medicaid expenditures represent approximately 39% of the Commonwealth's total annual fiscal year 2017 budget of approximately \$39 billion.

Liberty Adult Day Health, located in Hopkinton, became a certified MassHealth adult day health (ADH) provider on May 16, 2014. Until 2017, its name was Hopkinton Adult Day Health Center. Liberty's website states, "At Liberty Adult Day Health, we are committed to providing quality care to our guests. Our goal is to enrich their lives and assist them in maintaining an independent life." During the audit period, Liberty provided ADH services to 72 different MassHealth members.

MassHealth pays for ADH services provided to eligible MassHealth members. It paid Liberty \$1,356,967 for ADH services provided to MassHealth members during the audit period, as detailed in the table below.

### MassHealth Payments Received by Liberty

Calendar Year	MassHealth Payments	Number of Claims	Members Served
2016	\$ 646,843	17,576	56
2017	710,124	19,236	57
Total	<u>\$ 1,356,967</u>	<u>36,812</u>	

### ADH Services

MassHealth covers ADH services for eligible MassHealth members who need assistance with activities of daily living (ADLs) such as eating, toileting, bathing, walking, and taking medication. According to MassHealth regulations, to provide ADH services, an ADH provider must obtain documentation from the member's own physician that includes the following:

- written physician orders detailing the member's need for ADH services

- recent medical history
- results of a physical exam
- all medications and treatments prescribed
- special dietary needs
- any limitations the member may have in participating in ADH activities
- recommendations for therapy services, such as speech or physical therapy

The ADH provider uses this information to develop a member care plan that includes a treatment plan based on the member's physician orders.

Additionally, the ADH provider must obtain written clinical authorizations from MassHealth approving the member to receive ADH services. The ADH provider must obtain both physician orders and MassHealth clinical authorizations before the member's first day of service.

According to the Massachusetts Adult Day Services Association website, there are approximately 149 ADH programs in the Commonwealth, many of which are certified by MassHealth to provide ADH services to its members. These MassHealth-certified ADH providers bill MassHealth for ADH services either by the unit (in 15-minute increments) or for an entire six-hour day. ADH providers bill for one of two levels of ADH care:

- basic care, paid at \$58.83 per day or \$2.45 per 15-minute interval
- complex care, paid at \$74.50 per day or \$3.10 per 15-minute interval

In addition, ADH providers can bill MassHealth for transporting members to and from their facilities according to the applicable rate schedules established by the state Executive Office of Health and Human Services. Liberty receives \$20.00 per trip for transporting its members to and from its facility in Hopkinton.

To avoid paying for duplicate services, MassHealth does not reimburse ADH providers for ADL services for (1) members residing in facilities such as nursing homes or home health agencies that provide the same services at the same time or (2) members receiving ADL services at the same time from personal care attendants.



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## **Aging Services Access Points**

Section 4B of Chapter 19A of the General Laws established Aging Services Access Points (ASAPs). According to the Executive Office of Elder Affairs' website, ASAPs are "private non-profit agencies with governing boards that serve and represent 51% of people age 60 and older." The Executive Office of Elder Affairs contracts with ASAPs to provide services by region for Massachusetts residents, including clinical assessments for MassHealth members seeking ADH services. These assessments are performed by ASAP nurses and represent independent clinical authorizations on behalf of MassHealth that verify MassHealth members' medical need for ADH services. ASAPs receive referrals from ADH providers when new MassHealth members seek ADH services, for which ASAPs perform clinical assessments.

Upon completion of clinical assessments, ASAP nurses give ADH providers determination letters approving or denying members' ADH services. ADH providers cannot provide any ADH services to members until they receive these letters.

ASAPs also pay ADH providers for services provided to MassHealth members enrolled in certain MassHealth plans, such as senior care organization and accountable care organization plans.

During our audit period, there were 26 ASAPs in the Commonwealth, and Liberty primarily used the services of the ASAPs BayPath Elder Services, Inc. in Marlborough and Tri-Valley, Inc. in Dudley.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of Liberty Adult Day Health for the period January 1, 2016 through December 31, 2017.

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.

Below is our audit objective, indicating the question we intended our audit to answer, the conclusion we reached regarding the objective, and where the objective is discussed in the audit findings.

Objective	Conclusion
1. Did Liberty properly bill for medical services provided to MassHealth members?	No; see Findings <u>1</u> and <u>2</u>

### Methodology

We obtained claim data from MassHealth's Medicaid Management Information System (MMIS) for testing. These data contained information for both fee-for-service claims, which adult day health (ADH) centers bill directly to MassHealth, and encounter claims, which represent services provided by other MassHealth plans such as senior care organization (SCO) and accountable care organization (ACO) plans. To test the reliability of these data, we relied on the work performed by OSA in a separate project that tested certain information system controls in MMIS, which is maintained by the Executive Office of Health and Human Services. As part of the work performed in this separate project, OSA reviewed existing information, tested selected system controls, and interviewed knowledgeable agency officials about the data. Additionally, we performed validity and integrity tests on claim data, including (1) testing for missing data, (2) scanning for duplicate records, (3) testing for values outside a designated range, (4) looking for dates outside specific time periods, and (5) tracing a sample of claims queried to source documents. Based on these procedures, we determined that the data obtained were sufficiently reliable for the purposes of this report.

From discussions with Liberty management, we gained an understanding of internal controls over Liberty's billing processes for ADH services that we deemed significant to our audit objective.

Effective July 27, 2018, MassHealth revised Chapter 404 of Title 130 of the Code of Massachusetts Regulations. For the purpose of our audit, MassHealth officials instructed OSA to use the prior regulations that were in effect during the audit period, January 1, 2016 through December 31, 2017.

Liberty provided ADH services to 72 MassHealth members during the audit period. We selected a judgmental sample of the 20 members for whom MassHealth paid Liberty the highest amount for services to determine whether Liberty properly billed for the services it provided. We performed the following audit procedures:

- We examined member medical records to determine whether a physician order approving ADH services was included in each member's records.
- We determined whether each physician order indicated that the member required assistance with specific activities of daily living and/or skilled nursing services.
- We reviewed signed physician orders to determine whether their dates were on or before the members' first dates of ADH services, because MassHealth does not pay for ADH services before the ADH provider receives a signed physician order.
- We reviewed members' records to determine whether Liberty obtained clinical authorizations from MassHealth or the members' SCO or ACO health plans and whether the authorizations' dates were on or before the members' first dates of service.

We did not extrapolate the results of our findings to the population of members because we selected a judgmental sample of 20 members to test.

We performed a data analysis to identify all MassHealth members who received services from Liberty and may have received duplicate services based on an isolated risk factor: receiving both six hours of ADH services and six hours of personal care attendant (PCA) services on the same day. For these members, we evaluated PCA timesheets, ADH attendance logs, and care plans to determine whether MassHealth paid for duplicate services.

## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### 1. Liberty Adult Day Health did not properly document physician orders in member records to support adult day health services it billed, totaling \$32,407.

Of the 20 sampled MassHealth members to whom Liberty Adult Day Health provided adult day health (ADH) services during our audit period, records for 1 member (with claims totaling \$32,407) lacked the properly authorized physician order necessary to substantiate the types and levels of service the member was authorized to receive. Without a physician order signed by a physician, there is a higher-than-acceptable risk that Liberty may not have provided the appropriate types and levels of service.

#### Authoritative Guidance

According to Section 404.406 of Title 130 of the Code of Massachusetts Regulations (CMR) as of March 2010, to initiate ADH services, providers must maintain physician documentation, including physician orders, for the services:

*(D) Scope of Services. All adult day health programs participating in MassHealth must provide the following services as part of their adult day health services.*

*(1) Nursing Services and Health Oversight. . . .*

*(a) administration of medications and treatments prescribed by the member's physician. . . .*

*(F) Documentation Requirements.*

*(2) Physician's Documentation. . . .*

*(a) Before the member's first attendance day, the ADH provider must obtain the necessary documentation from the member's physician.*

*(b) The physician's documentation must include*

*(i) physician orders for adult day health services.*

#### Reasons for Noncompliance

Liberty does not have any internal controls (e.g., policies or procedures) in place to ensure that it obtains properly signed physician orders. Additionally, during our discussions with the current program director,

she stated that she was hired in 2018, after the audit period, and could not speak to what occurred before she arrived.

## Recommendations

1. Liberty should collaborate with MassHealth to repay the \$32,407 discussed in this finding.
2. Liberty should develop internal control policies and procedures to ensure that completed and authorized physician orders are in place before it provides ADH services to MassHealth members.

## MassHealth's Response

*OSA's audit findings have triggered a need for MassHealth to conduct its own audit of Liberty ADH.*

*MassHealth agrees with [recommendation 2].*

## Auditee's Response

*It is a fact that the physician's documentation form for [one member] was not found in her chart. I have been in contact with [the doctor's] office and they checked [the member's] chart and they did not have a copy of it either. I had hoped they did and we had just misplaced it. I was able to find preauthorization decisions from Fallon Navicare [a health organization sponsored by Fallon Community Health Plan]—stating she was approved for Day Care Services and Transportation to and from Liberty. . . . I feel Liberty provided services to this client and deserves to be paid for these services. I will ensure all Physicians Documentation forms are in ALL client charts moving forward.*

## Auditor's Reply

In its response, Liberty states that although it did not have the physician order in the member's records, it did have records of preauthorization decisions from Fallon Navicare, semiannual reports, and care plans with the member's physician's signature. Liberty also stated that its nursing staff members held several discussions with the member's physician, who indicated that they approved of this healthcare. The Office of the State Auditor (OSA) did review the records of the preauthorization decisions from Fallon Navicare as well as the care plans Liberty mentions in its response; however, these records do not constitute a proper physician order, which, according to MassHealth regulations, is required before a member's first attendance day.

Based on its response, Liberty is taking measures to address this problem.

## **2. Liberty did not always obtain physician orders detailing the assistance with activities of daily living that members required.**

In the records of 9 out of 20 sampled members from our population of 72, the physician orders did not detail the assistance with activities of daily living (ADLs) and/or skilled nursing services that the members required. For these 9 members, Liberty billed MassHealth for, and was paid, a total of \$380,257. Because the physician orders did not include lists of services the members required, the individual care plans that Liberty developed for these members may be inadequate.

### **Authoritative Guidance**

According to 130 CMR 404.406(F)(3) as of March 2010,

*(a) Care Plan Development. Within six business days after a member's date of service commencement, the ADH provider's staff must complete an adult day health care plan for the member. The ADH provider's registered nurse must coordinate the development of the member care plan. The plan must include*

*(i) a treatment plan based on the member's physician's orders*

### **Reasons for Noncompliance**

Liberty's program director stated that she was hired in 2018, after the audit period, and could not speak to what occurred before she arrived. She stated that she was ensuring that physician orders for newly enrolled MassHealth members complied with MassHealth regulations. However, OSA found that Liberty does not have any internal controls (e.g., policies or procedures) in place to ensure that physician orders contain the necessary information to develop adequate care plans for MassHealth members.

### **Recommendation**

Liberty should develop policies and procedures for the review of physician orders to ensure that these orders contain the necessary information to develop adequate care plans for MassHealth members.

### **MassHealth's Response**

*MassHealth does not agree with the findings or the recommendation. The OSA reads MassHealth's transmittal letter ADH-25, together with 130 CMR 404.406(F)(2)(a)–(c) to establish the requirement that a physician order must list the member's ADL impairment(s) in order to demonstrate medical necessity for ADH services. This is not an accurate interpretation of the regulation. The physician order is not required to list a member's ADL impairment(s) to demonstrate medical necessity for ADH services. The ADH program conducts a clinical assessment that establishes the member's specific care plan, including skilled services and*

*assistance with ADLs, as necessary. The physician order should confirm a member's mental status and continence status but does not need to include a list of a member's specific ADL impairment(s).*

### **Auditee's Response**

*I absolutely agree with the recommendation of developing policy and procedure [to ensure] the physician's documentation contains the necessary information. Liberty has an admission checklist in which the documentation required before admission is listed and initialed by the Nursing Department. Not only is Physicians Documentation Form Signed but also we have added **Physicians details** necessary for developing [a] care plan and directing staff on what the client's needs are. The documentation will also be reviewed by The Program Director prior to admission.*

*We have implemented this and unfortunately there is a much longer delay in the time it takes before someone is admitted to Liberty. For example: we have held up the admission of a client because her Primary Care Physician has not completed the documentation in detail.*

### **Auditor's Reply**

OSA is not asserting that that a physician order must list the member's ADL impairment/s to demonstrate medical necessity for ADH services. If this were the case, OSA would have recommended that MassHealth seek reimbursement of some, if not all, of the \$380,257 Liberty received from MassHealth for treating the nine sampled members whose physician orders did not contain this information. Rather, OSA believes that because MassHealth regulations specifically require that "a treatment plan based on the member's physician's orders" be developed, physician orders should document sufficient detail about what services the physician believes are medically necessary, which will supplement the information in the clinical assessment and facilitate the development of a comprehensive treatment plan for the member. This is apparently a best practice, as the majority of the physician orders that OSA reviewed did contain this level of information. In further support of this, Liberty states in its response that it agrees with our finding and has implemented new forms to gather this information.

OSA acknowledges that ADH providers are responsible for conducting clinical assessments to establish members' specific care plans. However, OSA believes that physician orders should provide sufficient detail to document members' service needs. Because ADH providers are in a position both to assess a member's needs and to provide the specified services, a detailed physician order could prevent ADH providers from prescribing excessive and/or unnecessary services.