



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

*Making government work better*

Official Audit Report – Issued September 19, 2019

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## Office of Medicaid (MassHealth)—Review of Claims Paid for Day Habilitation Services Provided by United Cerebral Palsy

For the period April 1, 2015 through July 31, 2018





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*Making government work better*

September 19, 2019

Mr. Todd Kates, Executive Director  
United Cerebral Palsy  
71 Arsenal Street  
Watertown, MA 02472

Dear Mr. Kates:

I am pleased to provide this performance audit of United Cerebral Palsy. This report details the audit objective, scope, methodology, finding, and recommendations for the audit period, April 1, 2015 through July 31, 2018. 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 United Cerebral Palsy 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 Compliance, Office of Medicaid  
Teresa Reynolds, Executive Assistant to Secretary Sudders  
Richard Merson, Chair of the Board of Directors, United Cerebral Palsy

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## LIST OF ABBREVIATIONS

DH	day habilitation
MMIS	Medicaid Management Information System
OSA	Office of the State Auditor
PASRR	Preadmission Screening and Resident Review
UCP	United Cerebral Palsy

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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 day habilitation (DH) services paid to United Cerebral Palsy (UCP) for the period April 1, 2015 through July 31, 2018. During this period, MassHealth paid UCP \$4,505,326 to provide DH services for 111 MassHealth members. The purpose of this audit was to determine whether UCP obtained the required authorization from a physician or primary care clinician for DH 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 finding and recommendations, with links to each page listed.

<b>Finding 1</b> <b>Page 8</b>	UCP did not obtain physician or primary care clinician authorizations to support payment for DH services provided to six MassHealth members.
<b>Recommendations</b> <b>Page 8</b>	<ol style="list-style-type: none"><li>1. UCP should collaborate with MassHealth to determine how much of the \$122,357 discussed in this finding should be repaid.</li><li>2. UCP should update its policies and procedures to require its staff to ensure the completion of physician or primary care clinician authorizations before it provides DH services for MassHealth members.</li></ol>

## 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 for approximately 1.9 million low- and moderate-income children, families, seniors, and people with disabilities annually. In fiscal year 2017, MassHealth paid healthcare providers more than \$15 billion, of which approximately 50% was funded by the Commonwealth. Medicaid expenditures represented approximately 39% of the Commonwealth's total fiscal year 2017 budget of approximately \$39 billion.

United Cerebral Palsy (UCP) in Watertown became a certified MassHealth day habilitation (DH) provider in 1983. According to its website, UCP's mission is "advancing the independence, full citizenship and productivity of people with disabilities."

MassHealth pays for DH services provided to eligible MassHealth members. It paid UCP \$4,505,326 for DH services provided to 111 MassHealth members during the audit period, as shown below.

### MassHealth Payments Received by UCP

Calendar Year	MassHealth Payments	Number of Claims	Members Served
<b>2015</b> <b>(April 1–December 31)</b>	\$1,227,776	293,785	82
<b>2016</b>	1,595,525	384,220	91
<b>2017</b>	1,099,817	266,850	71
<b>2018</b> <b>(January 1–July 31)</b>	582,208	141,208	58
<b>Total</b>	<u>\$4,505,326</u>	<u>1,086,063</u>	<u>111*</u>

\* This is the unduplicated total number of members served.

### DH Services

MassHealth covers DH services for eligible MassHealth members based on a member service plan that sets forth measurable goals and objectives and prescribes an integrated program of activities and

therapies necessary to reach them. According to Section 419.434 of Title 130 of the Code of Massachusetts Regulations,<sup>1</sup> to be considered for admission to the DH program,

- (A) The member must have mental retardation or a developmental disability. . . .*
- (B) The member must need and be expected to benefit from, day habilitation services designed to improve his or her level of independent functioning.*
- (C) The member must have a personal physician or medical clinic that may be contacted for consultations, examinations, and emergencies.*
- (D) Within 12 months before admission, the member must have had a comprehensive evaluation by a referring provider that includes the following:*
  - (1) a written assessment of his or her social skills;*
  - (2) a written assessment of his or her medical, mental, functional, and developmental status; and*
  - (3) a home assessment that includes a family history and the person's developmental history and a description of adaptation to the home environment.*
- (E) The member must have a record of all past and present immunizations and diagnostic tests.*
- (F) Members residing in nursing facilities must have been recommended for specialized services as a result of a preadmission screening.*

A service-needs assessment must be completed. This is a compilation of evaluations by qualified professionals who determine the member's functioning level, needs, and strengths and make specific recommendations for DH services to address identified needs. The DH provider uses this information to develop a member service plan that includes a treatment plan to achieve goals.

Additionally, for a DH provider to be paid, the DH services must be medically necessary as determined by MassHealth, must be prescribed in the member service plan, and must be authorized by the member's physician or primary care clinician.

A severity profile must be submitted to MassHealth as a condition for payment for DH services provided to a member. This form records the member's functional level and is used to determine the applicable MassHealth rate category for a member receiving DH services.

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1. Effective September 7, 2018, MassHealth revised Section 419 of Title 130 of the Code of Massachusetts Regulations. For the purpose of our audit, OSA used the prior regulations that were in effect during the audit period.

According to MassHealth data, there are approximately 128 DH programs in the Commonwealth, many of which are certified by MassHealth to provide DH services to its members. MassHealth-certified DH providers bill MassHealth for DH services either by the unit (in 15-minute increments) or for entire six-hour days. DH providers bill for three categories of member function:

- low need, paid at \$70.08 per day or \$2.92 per 15-minute interval
- moderate need, paid at \$79.20 per day or \$3.30 per 15-minute interval
- high need, paid at \$102.72 per day or \$4.28 per 15-minute interval



## 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 United Cerebral Palsy (UCP) for the period April 1, 2015 through July 31, 2018.

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 finding and conclusions based on our audit objective.

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 UCP properly bill MassHealth for day habilitation (DH) services provided to MassHealth members?	No; see Finding <u>1</u>

### Auditee Selection

During our audit period, MassHealth paid approximately \$567 million for DH services. To identify the DH services that represented the highest risk, we (1) performed data analytics on all DH service claims paid during the audit period to identify the frequency of complex billings compared to basic and intermediate billings by all providers, (2) reviewed the highest billings for each location compared to overall billings to isolate any unusually high billings at the locations, and (3) isolated providers with 100% complex billings. Based on the results of this analysis, we selected UCP for audit.

### Methodology

We obtained claim data from MassHealth's Medicaid Management Information System (MMIS) for testing. These data contained information about fee-for-service claims, which DH providers bill directly to MassHealth. 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 values outside a designated range, (4) looking for dates outside specific time periods, and (5) tracing a sample of claims queried to source documents and confirming the type and severity of each individual's disability for claims paid. Based on these procedures, we determined that the data obtained were sufficiently reliable for the purposes of this report.

We evaluated the design of UCP's billing processes for DH services and the related internal controls over these processes that we deemed significant to our audit objective.

Effective September 7, 2018, MassHealth revised Chapter 419 of Title 130 of the Code of Massachusetts Regulations. For the purpose of our audit, OSA used the prior regulations that were in effect during the audit period.

Because UCP provided DH services to only 111 MassHealth members during the audit period, we evaluated all 111 members' files to determine whether UCP properly billed for services it provided. To do so, we reviewed information in all members' medical records. This included reviewing active member binders on site and looking through archived inactive member folders. We recorded and verified the following for each member: (1) the date s/he started the program; (2) a physical examination record in the file; (3) a physician or primary care clinician authorization, as well the date the form was signed and the physician's or primary care clinician's name, address, and phone number on the form; (4) a service-needs assessment; (5) a severity profile; (6) a member service plan; and (7) a Preadmission Screening and Resident Review (PASRR)<sup>2</sup> if the member lived at a nursing facility.

We performed the following audit procedures:

- We examined member files to determine whether a physician or primary care authorization approving DH services was included in each member's records.
- We reviewed the dates of physician or primary care clinician authorizations against the dates members started the program. We then reviewed a PASRR on record for "approval of need," if applicable.

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2. According to [medicaid.gov](https://www.mass.gov/info-details/pasrr), "Preadmission Screening and Resident Review (PASRR) is a federal requirement to help ensure that individuals are not inappropriately placed in nursing homes for long term care."

- We compared the dates that the first claims were paid for each member to their physician or primary care clinician authorizations to determine whether claims were paid after the authorizations were signed.
- We sent physician signature confirmations to a judgmental sample of 21 out of 63 doctors whose signatures appeared on one or more physician authorizations within the audit period to verify that their signatures were authentic. We used nonstatistical sampling; therefore, we did not project our results to the population.

Additionally, we ran queries from MMIS of all the services received by each member to determine whether they also received personal care or nursing facility services from providers. From this analysis, we determined that no personal care or nursing facility services were provided at the same time DH services were provided.

## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### **1. United Cerebral Palsy did not obtain physician or primary care clinician authorizations to support payment for day habilitation services provided to six MassHealth members.**

For 6 of the 111 MassHealth members tested, United Cerebral Palsy (UCP) lacked proper physician or primary care clinician authorizations for day habilitation (DH) services. As a result, there is a higher-than-acceptable risk that UCP may not provide the appropriate types and levels of service to these members. During our audit period, UCP received a total of \$122,357 from MassHealth for DH services provided to these six members.

#### **Authoritative Guidance**

According to Section 419.407(D)(3) of Title 130 of the Code of Massachusetts Regulations, to receive payment for DH services, providers must obtain documentation, including physician or primary care clinician authorizations, for the services, ensuring that "the day habilitation services have been authorized by the member's physician or primary-care clinician."

#### **Reasons for Noncompliance**

UCP does not have any policies or procedures that require its staff to ensure the completion of physician or primary care clinician authorizations before it provides DH services for MassHealth members.

#### **Recommendations**

1. UCP should collaborate with MassHealth to determine how much of the \$122,357 discussed in this finding should be repaid.
2. UCP should update its policies and procedures to require its staff to ensure the completion of physician or primary care clinician authorizations before it provides DH services for MassHealth members.

#### **Auditee's Response**

*UCP has, in fact, periodically obtained subsequent authorization from each member's [primary care practitioner, or] PCP to provide [DH] services or otherwise relied on such authorization from the skilled nursing facility at which certain members resided, which were endorsed by each resident's PCP. In particular, consistent with the regulations, UCP maintains and periodically updates a comprehensive, individualized treatment plan for each member. As a matter of policy, each time UCP's interdisciplinary team recommends an update to a member's treatment plan, UCP obtains approval from the member's PCP. In effect, each member's PCP periodically*

*authorizes UCP to provide the specific [DH] services that are detailed on the member's individualized service plan, mooted any initial authorization given upon the member's enrollment.*

*In so giving such periodic approvals, each member's PCP reviews the member's treatment plan for that time period and authorizes the provision of those particular [DH] services to the member during the related time period. Effectively, this protocol makes these periodic approvals more meaningful than initial PCP authorizations, which generally only assert that the member "requires and would benefit" from [DH] services and do not reflect members' progress and changes in condition over time.*

*These periodic authorizations clearly suffice to satisfy the regulation that governed [DH] providers during the Audit Period, which did not require a [DH] provider to indefinitely rely on the PCP authorization obtained upon initial enrollment. Rather, the regulations at the time simply required the [DH] services to "have been authorized by the member's physician or primary care clinician." 130 [Code of Massachusetts Regulations, or CMR] 419.407 (pre-September 11, 2018). In fact, requiring a [DH] provider to indefinitely rely on initial PCP authorizations is inconsistent with the regulations as they related to record retention, which only required a [DH] provider to maintain member records for four (4) years after the date of service. 130 CMR 419.446(A)(1) (pre-September 11, 2018).*

*Further, MassHealth has periodically audited UCP, having done so as recently as 2014. At no point has MassHealth alleged that UCP failed to obtain PCP authorization to provide services to these particular members, providing further confirmation that the initial prior authorizations did, in fact, exist as required. Even if they did not previously exist (which they did), the nature of UCP's clients' disabilities is such that, as a practical matter, their respective disabilities do not "improve" such that they would no longer have a need for [DH] services. Accordingly, if clients' physicians approved services recently, they likely would have also approved services upon the clients' initial admission several years ago.*

*Moreover, various UCP clients were residents of a skilled nursing facility that was owned by [the Department of Developmental Services]. For each such client, through a Preadmission Screening and Resident Review ("PASRR"), the skilled nursing facility determined that these residents required and would benefit from [DH] services, and such determinations were endorsed by these residents' PCPs. This is the same information that would be included on the initial authorization form.*

## **MassHealth's Response**

*MassHealth is committed to continual improvement of program integrity and has endeavored to strengthen the integrity of the Day Habilitation program through increased oversight and education of Day Habilitation providers. Specifically, MassHealth has undertaken the following program integrity initiatives in the Day Habilitation program.*

- In **September 2018**, MassHealth promulgated the revised Day Habilitation provider regulations. The revised regulations, among other things, clarified eligibility requirements.*

- *In **November 2018**, MassHealth began development of an audit tool to be used for systematic monthly on-site audits of Day Habilitation providers. These systematic audits will begin in September 2019.*
- *In early **spring 2020**, MassHealth will implement Prior Authorization (PA) requirements for the provision of Day Habilitation services. With the advent of PA requirements, Day Habilitation providers will be required to (1) provide documentation justifying a member's eligibility and level of care needed for DH services, as well as (2) submit physician authorization to provide Day Habilitation services to the member prior to rendering and billing for Day Habilitation services provided to the member.*

*Regarding the audit finding and recommendations in the audit, MassHealth agrees with the recommendations. . . .*

*MassHealth will conduct its own audit of UCP.*

### **Auditor's Reply**

In its response, UCP asserts that there was documentation in each of the six member files in question. In UCP's opinion, this indicates that the members' medical providers knew and approved of the members' attending UCP. However, none of this documentation included physician or primary care clinician authorizations for DH services. As noted above, MassHealth regulations state that a physician or primary care clinician authorization must be obtained before the member's first attendance day. Although the documentation that existed in these member files, which included such records as treatment plans and member service plans, can substantiate that members received prescribed medical services from UCP, they are not a substitute for the physician or primary care clinician authorizations that MassHealth regulations require. Although the Office of the State Auditor (OSA) cannot speak to past audits of UCP conducted by MassHealth, we found some problems in this area during our audit, and we are recommending measures that we believe will address them.

OSA is not asserting that UCP should "indefinitely rely on the PCP authorization obtained upon initial enrollment" and acknowledges that sometimes a member's treatment plan may need to be updated, at which point subsequent authorization would be needed. However, the physician or primary care clinician authorization is the document that supports the need for a member to receive DH services, and MassHealth regulations specifically require physician documentation before a member's first day of service. Therefore, regardless of whether UCP and a member's medical provider have communicated about specific services the member receives, OSA believes that without proper authorization, there is a higher-than-acceptable risk that the member may not be provided with the appropriate types and levels of service. Although we acknowledge that documents can be misfiled, we believe that the controls over

these authorizations could be strengthened; therefore, we again urge UCP to implement our recommendation to update its policies and procedures to require its staff to ensure that completed physician or primary care clinician authorizations are in place before it provides DH services for MassHealth members.