OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

Official Audit Report – Issued September 4, 2024

Office of Medicaid (MassHealth)—
Review of Payment for Telehealth Adult Foster Care and Group Adult Foster Care

For the period January 1, 2020 through December 31, 2021

State House Room 230 ■ Boston, MA 02133 ■ auditor@massauditor.gov ■ www.mass.gov/auditor

OFFICE OF THE STATE AUDITOR
DIANA DIZOGLIO

September 4, 2024

Kate Walsh, Secretary
Executive Office of Health and Human Services
1 Ashburton Place, 11th Floor
Boston, MA 02108

Dear Secretary Walsh:

I am pleased to provide to you the results of the enclosed performance audit of MassHealth. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2020 through December 31, 2021. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at MassHealth. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Best regards,

Diana DiZoglio
Auditor of the Commonwealth

cc: Mike Levine, Assistant Secretary for MassHealth

Joan Senatore, Director and Legal Counsel, Provider Compliance Enforcement and Audit Response at the Executive Office of Health and Human Services

Jeff Clausen, Deputy General Counsel at the Executive Office of Health and Human Services

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

OVERVIEW OF AUDITED ENTITY 3

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY 6

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE 10

1. **MassHealth did not ensure that adult foster care and group adult foster care registered nurses / licensed practical nurses and care managers conducted required oversight visits.** 10
2. **MassHealth paid adult foster care and group adult foster care providers for services that did not have supporting caregiver / direct care aide log documentation.** 12
3. **MassHealth paid for adult foster care and group adult foster care caregiver / direct care aide services that were incorrectly coded as telehealth.** 15

LIST OF ABBREVIATIONS

ADL	activity of daily living
AFC	adult foster care
CMR	Code of Massachusetts Regulations
GAFC	group adult foster care
IADL	instrumental activity of daily living
MMIS	Medicaid Management Information System
OSA	Office of the State Auditor

EXECUTIVE SUMMARY

The Office of the State Auditor (OSA) receives an annual appropriation for the operation of a Medicaid Audit Unit to help 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 and 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 a performance audit of MassHealth's payments for telehealth adult foster care (AFC) and group adult foster care (GAFC) services for the period January 1, 2020 through December 31, 2021. During this period, MassHealth paid $771,112,638 for 7,099,054 AFC and GAFC claims, of which, $22,979,654 was paid for 310,831 telehealth AFC and GAFC claims. The purpose of this audit was to determine whether MassHealth monitored telehealth practices for AFC and GAFC services to ensure compliance with its regulations.

The audit was conducted as part of OSA's ongoing independent statutory oversight of the state's Medicaid program. Several of our previously issued audit reports disclosed weaknesses in MassHealth's claim processing system and improper billing practices by MassHealth providers, which identified millions of dollars in potentially improper payments. As with any government program, public confidence is essential to the success and continued support for public expenditures, such as the state's Medicaid program. Our audit is designed to identify issues that will help improve the Medicaid program, so taxpayers know that their dollars are spent prudently and that there is a system of continuous improvement to support improved efficiency and service over time.

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

Finding 1 **Page 10**	MassHealth did not ensure that AFC and GAFC registered nurses / licensed practical nurses and care managers conducted required oversight visits.
Effect	The absence of required oversight visits, whether on-site or through telehealth, calls into question whether the proper quality of care was given to each member who received AFC or GAFC. Because these oversight visits also assist caregivers and direct care aides in the work they do to care for AFC and GAFC members, this also calls into question whether each caregiver / direct care aide was adequately supported in the work they provided.
Recommendation **Page 11**	MassHealth should establish effective monitoring controls to ensure that AFC and GAFC providers conduct the required oversight visits for MassHealth members and caregivers / direct care aides. To establish effective monitoring controls, we believe MassHealth should establish a goal for the number of AFC / GAFC providers it will audit each year.
Finding 2 **Page 12**	MassHealth paid AFC and GAFC providers for services that did not have supporting caregiver / direct care aide log documentation.
Effect	The lack of adequate documentation calls into question whether all of the services from caregivers and direct care aides were delivered and makes it impossible to determine whether services were necessary or appropriate for members.
Recommendation **Page 14**	MassHealth should establish an effective monitoring process to ensure that caregivers / direct care aides of AFC and GAFC providers properly document care in their logs.
Finding 3 **Page 15**	MassHealth paid for AFC and GAFC caregiver / direct care aide services that were incorrectly coded as telehealth.
Effect	If MassHealth pays for services billed incorrectly without verifying how the services are provided, it may pay for unallowable services. By paying for unallowable services, MassHealth will have less money available to pay for allowable services for other MassHealth members.
Recommendation **Page 16**	MassHealth should add a system control in the Medicaid Management Information System to deny AFC and GAFC caregiver / direct care aide services in a telehealth setting.

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 annually provides access to healthcare services for approximately 2.3 million eligible children, families, people over 65, and people with disabilities, all of whom have low or moderate incomes. Below is a chart of MassHealth's 2023 income standards and federal poverty guidelines.

2023 MassHealth Income Standard and Federal Poverty Guidelines

Family Size	MassHealth Income Limit (Annually)	100% Federal Poverty Level	133% Federal Poverty Level	150% Federal Poverty Level
1	$6,264	$14,580	$19,392	$21,876
2	$7,800	$19,728	$26,232	$29,580
3	$9,300	$24,864	$33,072	$37,296
4	$10,692	$30,000	$39,900	$45,000
5	$12,192	$35,148	$46,740	$52,716
6	$13,692	$40,284	$53,580	$60,420
7	$15,192	$45,420	$60,420	$68,136
8	$16,596	$50,568	$67,248	$75,840

In fiscal year 2023, MassHealth paid healthcare providers more than $17.1 billion, of which approximately 35% was funded by the Commonwealth. Medicaid expenditures represent approximately 33% of the Commonwealth's total fiscal year 2023 budget.

Adult Foster Care and Group Adult Foster Care Programs

The MassHealth adult foster care (AFC) and group adult foster care (GAFC) programs provide adult members over 65 and adult members with disabilities with assistance performing activities of daily living (ADLs) and instrumental activities of daily living (IADLs). ADLs include activities such as eating, toileting, dressing, bathing, and walking. IADLs are activities related to independent living that are incidental to a member's care, such as laundry, shopping, housekeeping, meal preparation and cleanup, transportation, and medication management.

MassHealth members are eligible to receive AFC or GAFC services if they require assistance or supervision with at least one ADL or IADL. Both programs are designed to provide sufficient assistance to allow

members to continue to live independently and avoid the much higher cost of a long-term healthcare facility. MassHealth requires all AFC and GAFC services to have an approved prior authorization from MassHealth before the first date of service and annually thereafter.

MassHealth's contracted AFC providers employ caregivers[1] who provide AFC services to MassHealth members who require them. Members live in caregivers' private residences and receive 24-hour supervision and assistance with both ADLs and IADLs. Each caregiver may house up to three members in their private residence.

Members enrolled in the GAFC program typically live in assisted living or subsidized group housing. Members receive assistance with ADLs and IADLs from GAFC direct care aides[2] for one to two hours each day.

AFC and GAFC providers are responsible for providing nursing oversight from a registered nurse / licensed practical nurse in conjunction with AFC and GAFC care managers,[3] AFC caregivers, and GAFC direct care aides. AFC providers are required to visit monthly or bimonthly, depending on the level of care.

For AFC Level I and the GAFC level of service, the care manager and registered nurse / licensed practical nurse must conduct required oversight visits every other month. For AFC Level II service, the care manager and registered nurse / licensed practical nurse must conduct required oversight visits monthly.

Sections 408.505(B) and 408.415(B) of Title 130 of the Code of Massachusetts Regulations require AFC and GAFC nursing oversight to be individualized to each member's needs. Examples of AFC and GAFC nursing oversight and care management responsibilities include, but are not limited to, the following:

- performing all clinical assessments, evaluations, and semiannual health status reports;
- performing required oversight visits at least every other month;
- coordinating all services with the care manager;
- making sure the plans of care are implemented;

1. Section 408.402 of Title 130 of the Code of Massachusetts Regulations defines an AFC caregiver as "a person who lives with the AFC member and [is] paid by the AFC provider for the provision of direct care."
2. GAFC direct care aides provide daily assistance with ADLs and IADLS and are supervised by the GAFC provider.
3. AFC and GAFC care managers work with registered nurses / licensed practical nurses to coordinate and monitor services for members receiving AFC and GAFC.

- providing support and training to caregivers / direct care aides; and
- reporting changes to a member's health.

Telehealth

Following the Governor's Declaration of Emergency on March 10, 2020, which was in response to the COVID-19 pandemic, MassHealth issued All Provider Bulletin 289, which permitted qualified providers to deliver clinically appropriate and medically necessary services to MassHealth members through telehealth. According to data from the Medicaid Management Information System, during the audit period, MassHealth paid AFC and GAFC providers $771,112,638; $22,979,654 of this amount was paid for telehealth AFC and GAFC services delivered by five providers.

According to MassHealth Adult Foster Care Bulletin 18, dated May 2021, AFC and GAFC caregivers / direct care aides could not provide services through telehealth. However, the bulletin also stated that AFC and GAFC providers could use telehealth services for initial evaluations, reassessments, and care management and nursing oversight. In addition, AFC and GAFC providers could not bill MassHealth for care management services or nursing oversight services because these services were included in the AFC and GAFC payment rate schedule established by the Executive Office of Health and Human Services.

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 MassHealth for the period January 1, 2020 through December 31, 2021.

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, and where the objective is discussed in the audit findings.

Objective	Conclusion
1. Did MassHealth monitor adult foster care (AFC) and group adult foster care (GAFC) providers to ensure that they complied with Section 408 of Title 130 of the Code of Massachusetts Regulations (CMR), 130 CMR 450, and MassHealth Adult Foster Care Bulletins 18 and 21?	**No; see Findings 1, 2, and 3**

To accomplish our audit objective, we gained an understanding of the aspects of the internal control environment relevant to our objective by reviewing applicable MassHealth policies and procedures and by conducting inquiries with MassHealth officials who are responsible for the oversight of AFC and GAFC programs. In addition, to obtain sufficient, appropriate evidence to address our audit objective, we performed the following procedures.

Sample Strategy

We obtained data from the Medicaid Management Information System (MMIS)[4] of all the claims paid by MassHealth to AFC and GAFC providers for the audit period. We filtered these claims to include only AFC and GAFC service codes. We further filtered for claims that only contained the service code for telehealth

4. MMIS is the claim processing and data warehouse system that MassHealth uses. MMIS contains various types of information, such as healthcare information about services provided to MassHealth members and billing submission data. It is used for processing data, verifying eligibility, and running reports that identify medical treatments.

services. This gave us a population of 310,831 claims, totaling $22,979,654, corresponding to 1,002 members.

We selected a random, statistical sample[5] of 119 out of these 1,002 members using a 90% confidence level,[6] a 50% expected error rate,[7] and a 15% desired precision range.[8]

Next, to include members who did not receive AFC and GAFC services rendered through telehealth during the audit period, we filtered the AFC and GAFC claims from MMIS to exclude claims that contained the service code for telehealth services. This population contained 5,897 members who had 2,730,400 claims, totaling $190,782,589. We selected a random, statistical sample of 128 out of these 5,897 members from the 10 providers who were paid the most for AFC and GAFC services, using a 90% confidence level, a 50% expected error rate, and a 15% desired precision range.

For the 119 members in our telehealth sample and 128 members in our non-telehealth sample, we contacted the 5 telehealth AFC and GAFC and 10 non-telehealth AFC and GAFC providers related to the claims from these members to request supporting documentation for these members. The supporting documentation, which included care manager and nursing notes, prior authorizations, and caregiver / direct care aide logs,[9] indicated whether AFC and GAFC services were being provided in accordance with MassHealth regulations during the audit period.

Based on the results of our testing, we determined that, during the audit period, MassHealth paid for AFC and GAFC caregiver / direct care aide services that were coded as telehealth services, even though the services were provided in person. See Finding 3 for more information.

5. Auditors use statistical sampling to select items for audit testing when a population is large and contains similar items. Auditors generally use a statistics software program to choose a random sample when statistical sampling is used. The results of testing using statistical sampling, unlike those from judgmental sampling, can usually be used to make conclusions or projections about entire populations.
6. Confidence level is a mathematically based measure of the auditor's assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.
7. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor's knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.
8. Desired precision range is the range of likely values within which the true population value should lie; also called confidence interval. For example, if the interval is 90%, the auditor will set an upper confidence limit and a lower confidence where 90% of transactions fall within those limits.
9. Caregiver / direct care aide logs document the care delivered (e.g., assistance with eating, dressing, or housework) by a qualified AFC caregiver in accordance with each member's written plan of care.

Oversight Visits

For our telehealth and non-telehealth member samples, we inspected prior authorizations first to determine what level of service each member was authorized to receive. Next, we reviewed the care managers' and registered nurses' / licensed practical nurses' notes from both our telehealth and non-telehealth samples to determine whether they conducted and documented oversight visits at the regulated intervals.

Based on the results of our testing, we determined that, during the audit period, MassHealth did not ensure that required oversight visits by AFC and GAFC care managers and registered nurses / licensed practical nurses were conducted in accordance with 130 CMR 408. See Finding 1 for more information.

Caregiver/ Direct Care Aide Logs

For both our telehealth and non-telehealth member samples, we reviewed each claim associated with each member in our samples and inspected caregiver / direct care aide logs given to us by the AFC and GAFC providers. To determine whether these providers had supporting caregiver / direct care aide log documentation that corresponded with the billed service, we tested the following attributes:

- whether the provider received logs from caregivers / direct care aides;
- whether caregivers / direct care aides documented activity of daily living codes;
- whether caregivers' / direct care aides' initials were present on the log for each day;
- whether caregivers' / direct care aides' signatures were present on each log;
- whether care managers' or registered nurses' / licensed practical nurses' signatures were present on each log;
- whether care managers or registered nurses / licensed practical nurses reviewed each log every 30 days; and
- whether the modifier codes[10] included on the claim matched caregiver / direct care aide logs.

Based on the results of our testing, we determined that, during the audit period, MassHealth paid AFC and GAFC providers that did not have sufficient supporting caregiver / direct care aide log documentation.

10. Modifier codes provide MassHealth with additional information about medical services, such as when a member takes vacation and does not need services during that time.

See Finding 2 for more information. In addition, although all of the claims in our telehealth sample were coded and billed as telehealth, we were able to determine through caregiver / direct care aide logs that some of these claims were incorrectly coded and billed as telehealth. See Finding 3 for more information.

Data Reliability Assessment

To test the reliability of the claim data obtained from MMIS, we relied on the work performed by OSA in a separate project, completed in 2023, that tested certain information system controls in MMIS. As part of that work, OSA reviewed existing information, tested selected system controls, and interviewed knowledgeable MassHealth officials about the data. Additionally, as part of our current audit, we performed validity and integrity tests on all claim data from the audit period, including (1) testing for blank fields, (2) scanning for duplicate records, and (3) looking for dates outside of the audit period. We also selected a random sample of 20 claims from each of our telehealth and non-telehealth member populations, and traced the dates of service, member names, and procedure codes to MMIS.

Based on the results of the data reliability assessment procedures described above, we determined that the information obtained was sufficiently reliable for the purposes of our audit.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. MassHealth did not ensure that adult foster care and group adult foster care registered nurses / licensed practical nurses and care managers conducted required oversight visits.

MassHealth did not ensure that adult foster care (AFC) and group adult foster care (GAFC) registered nurses / licensed practical nurses and care managers conducted required oversight visits. Specifically, 67[11] out of the 119 members in our telehealth member sample were missing at least one required oversight visit by either a registered nurse / licensed practical nurse or a care manager during the audit period. Out of these 67 members, 54 were missing two or more required oversight visits by either a registered nurse / licensed practical nurse or care manager. Moreover, 34[12] out of the 128 members in our non-telehealth member sample were missing at least one required oversight visit by either a registered nurse / licensed practical nurse or a care manager. Out of these 34 members, 29 were missing two or more required oversight visits by either a registered nurse / licensed practical nurse or care manager.

The absence of required oversight visits, whether on-site or through telehealth, calls into question whether the proper quality of care was given to each member who received AFC or GAFC. Because these oversight visits also assist caregivers and direct care aides in the work they do to care for AFC and GAFC members, this also calls into question whether each caregiver / direct care aide was adequately supported in the work they provided.

Authoritative Guidance

According to Section 408.415 of Title 130 of the Code of Massachusetts Regulations (CMR),

> *(B) Nursing Oversight. . . .*
>
> *(a) For AFC level I service payment, the nurse must conduct on-site visits every other month, or more often as the member's condition warrant where such visits alternate with the required visits by the care manager to ensure the member receives one visit by the nurse or care manager every month. . . .*

11. Out of these 67 members from our telehealth member sample, 1 was a GAFC member. In addition, the same GAFC member was missing two or more required oversight visits by either a registered nurse / licensed practical nurse or care manager.
12. Out of these 34 members from our non-telehealth member sample, 2 were GAFC members. In addition, both GAFC members were missing two or more required oversight visits by either a registered nurse / licensed practical nurse or a care manager.

> *(b) For AFC level II service payment, the nurse must conduct on-site visits every month, or more often as the member's condition warrants, to ensure the member receives one visit by the nurse and one visit by the care manager every month. . . .*
>
> *(C) <u>Care Management.</u> . . .*
>
> *(a) For AFC level I service payment, the care manager must conduct on-site visits every other month, or more often as the member's condition warrants, where such visits alternate with the required visits by the nurse to ensure the member receives one visit by the nurse or care manager every month. . . .*
>
> *(b) For AFC level II service payment, the care manager must conduct on-site visits every month, or more often as the member's condition warrants, to ensure the member receives one visit by the nurse and one visit by the care manager every month.*

According to 130 CMR 408.505(B)(6),

> *(B) <u>Nursing Oversight.</u> . . .*
>
> *(6) [Responsibilities include] conducting on-site visits with each member at the member's home every other month or more often as the member's condition warrants, where such visits alternate with the required visits by the care manager to ensure the member receives one visit by the nurse or care manager every month. . . .*
>
> *(C) <u>Care Management.</u> . . .*
>
> *(5) [Responsibilities include] conducting on-site visits with each member at the member's home every other month, or more often as the member's condition warrants, where such visits alternate with the required visits by the nurse or care manager to ensure the member receives one visit by the care manager or nurse every month.*

Reasons for Issue

MassHealth does not have sufficient monitoring controls over care management and nursing oversight visits. AFC and GAFC providers do not bill required oversight visits separately to MassHealth; rather, these visits are included in a daily rate for AFC or GAFC services. The only way MassHealth could target the issue is by performing individual provider audits. While there were 258 providers during the audit period, MassHealth completed 3 audits of AFC and GAFC providers during the audit period and has 29 audits of AFC and GAFC providers still in progress.

Recommendation

MassHealth should establish effective monitoring controls to ensure that AFC and GAFC providers conduct the required oversight visits for MassHealth members and caregivers / direct care aides. To establish

effective monitoring controls, we believe MassHealth should establish a goal for the number of AFC / GAFC providers it will audit each year.

Auditee's Response

MassHealth agrees with this recommendation. MassHealth is committed to ensuring AFC and GAFC providers' compliance with federal and state requirements through clear and frequent outreach to the provider network via periodic trainings and provider meetings, as well as robust program integrity controls. Such program integrity controls include a comprehensive set of pre-pay edits, a prior authorization process that ensures services rendered are clinically appropriate, post-payment claims recoveries, and regularly scheduled audits of providers.

Program integrity initiatives developed and implemented since the period covered under this audit include instituting a temporary moratorium on new AFC providers from March 10, 2023, through September 10, 2023. The purpose of the temporary moratorium was to allow MassHealth to focus on enhanced training and education of existing AFC providers and the development of a more robust onboarding process for new AFC providers. Following the end of the moratorium, and in addition to instituting a more robust onboarding process, MassHealth schedules audits of every new AFC and GAFC provider within six months of their enrollment.

Additionally, to monitor compliance, and as part of MassHealth's overall program integrity strategy, MassHealth initiates audits of 2 to 3 AFC and GAFC providers each month (approximately 24-36 audits per year). As part of these audits, MassHealth auditors review documentation submitted by providers to ensure [registered nurse / licensed practical nurse] and care manager visits are documented and occur within the timeframes required by the provider regulations. Where MassHealth identifies instances of non-compliance, MassHealth issues overpayments and sanctions as appropriate.

From 2022 to present, MassHealth has initiated 92 audits of AFC and GAFC providers (approximately 3 audits per month) and has issued 49 initial notices of overpayment and sanction, which outline MassHealth's audit findings and initiates the recovery process for identified overpayments and sanctions.

Auditor's Reply

We commend MassHealth for implementing stronger monitoring controls over AFC and GAFC providers.

2. MassHealth paid adult foster care and group adult foster care providers for services that did not have supporting caregiver / direct care aide log documentation.

MassHealth paid AFC and GAFC providers for services that did not have supporting caregiver / direct care aide log documentation. Specifically, caregiver / direct care aide logs were incomplete or missing for 116 out of the 119 members from our telehealth member sample who received AFC or GAFC services. In

addition, caregiver / direct care aide logs were incomplete or missing for 103[13] out of the 128 members in our non-telehealth member sample who received AFC or GAFC services.

Below is a summary of the caregiver / direct care aide log documentation issues.

Documentation Issue	Number of Telehealth Members from Sample: Out of 119*	Number of Non-Telehealth Members from Sample: Out of 128*
Caregiver / direct care aide log not received	86 (72%)	29 (23%)
Activity of daily living (ADL) and instrumental activity of daily living (IADL) codes not present	19 (16%)	29 (23%)
Caregiver / direct care aide initials not present	36 (30%)	43 (34%)
Caregiver / direct care aide signature not present	20 (17%)	7 (5%)
No care manager or registered nurse / licensed practical nurse signature	35 (29%)	36 (28%)
Caregiver / direct care aide log not reviewed every 30 days	63 (53%)	82 (64%)
Incorrect modifier code	2 (2%)	1 (1%)

* Some of the members had multiple documentation issues and were included in more than one category.

The lack of adequate documentation calls into question whether all of the services from caregivers and direct care aides were delivered and makes it impossible to determine whether services were necessary or appropriate for members.

Authoritative Guidance

According to 130 CMR 408.433(C)(2) and (3), registered nurses / licensed practical nurses and care managers must review AFC caregivers' logs at least once every 30 days.

According to 130 CMR 408.434(C),

> *The AFC caregiver must*
>
> *(1) supervise and assist with ADLs and IADLs of a member that is necessary for the member's health and well-being;*
>
> *(2) monitor and report any nonurgent or nonemergency changes in the member's medical condition to the member's AFC provider. In cases of emergency, the AFC caregiver*

13. Out of these 103 members from our non-telehealth member sample, 8 were GAFC members.

must report directly to the most appropriate provider and follow up with the AFC provider;

(3) maintain of the qualified setting; . . .

(4) complete a caregiver log;

(5) send the completed caregiver log at the end of each month to the program's registered nurse where it is maintained as part of the member's file.

According to 130 CMR 408.524(B)(1), (2), and (5), the program director, registered nurse / licensed practical nurse, and care manager must review GAFC direct care aides' logs every 30 days.

According to 130 CMR 408.524(C)(2)(a),

(2) The responsibilities of the GAFC direct care aide include:

(a) provision of hands-on or cueing and supervision with ADLs and IADLs, of a member in accordance with the individual's GAFC plan of care and that is necessary for the member's health and well-being including, but not limited to, identifying when a crisis intervention is necessary; . . .

(e) sending the completed direct care aide log at the end of each month to the nurse where it is maintained as part of the member's file.

According to 130 CMR 450.205,

(B) All providers must maintain complete patient account records. . . .

(D) All records including, but not limited to, those containing signatures of medical professionals authorizing services . . . must, at a minimum, . . . comply with generally accepted standards for recordkeeping within the applicable provider type.

Reasons for Issue

MassHealth does not have an effective monitoring process in place to ensure that caregivers / direct care aides of AFC and GAFC providers properly document care in their logs to support that members are receiving needed care or that care that was billed and paid was actually delivered by qualified caregivers / direct care aides.

Recommendation

MassHealth should establish an effective monitoring process to ensure that caregivers / direct care aides of AFC and GAFC providers properly document care in their logs.

Auditee's Response

MassHealth agrees with this recommendation. As discussed above, MassHealth actively engages in provider education and program integrity activities to promote and monitor AFC and GAFC compliance with provider requirements. This includes the provision of provider education on requirements to train caregivers and direct care aides on care log documentation requirements, as well as provider audits to monitor compliance with program requirements, which includes review of caregiver / direct care aide logs.

As noted in response to Finding 1, above, from 2022 to present, MassHealth has initiated 92 audits of AFC and GAFC providers (approximately 3 audits per month) and has issued 49 initial notices of overpayment and sanction, which outline MassHealth's audit findings and initiates the recovery process for identified overpayments and sanctions.

Auditor's Reply

We commend MassHealth for implementing stronger monitoring controls over AFC and GAFC providers.

3. MassHealth paid for adult foster care and group adult foster care caregiver / direct care aide services that were incorrectly coded as telehealth.

MassHealth paid for AFC and GAFC services with the service code for telehealth when caregiver / direct care aide services are not allowable telehealth services. During the audit period, 5 out of the 258 AFC and GAFC providers incorrectly included the telehealth code in their bills, totaling $22,979,654[14] in AFC and GAFC services.

If MassHealth pays for services billed incorrectly without verifying how the services are provided, it may pay for unallowable services. By paying for unallowable services, MassHealth will have less money available to pay for allowable services for other MassHealth members.

Authoritative Guidance

MassHealth Adult Foster Care Bulletin 21, dated September 2021 states,

Adult foster care and group adult foster care providers may not use telehealth for

- *Caregiver or direct care aide assistance with activities of daily living or instrumental activities of daily living, inclusive of cueing and supervision of such activities.*

14. It should be noted that we determined through testing that this was a coding error and that the services were actually provided in person. Given the coding of these services, these bills should have been rejected because they were submitted as telehealth expenses and therefore were ineligible for payment.

Reasons for Issue

MassHealth does not have sufficient system controls to prevent the payment of unauthorized services in the Medicaid Management Information System (MMIS). These controls should automatically deny payment for caregiver / direct care aide telehealth services from AFC and GAFC providers.

Recommendation

MassHealth should add a system control in MMIS to deny AFC and GAFC caregiver / direct care aide services in a telehealth setting.

Auditee's Response

MassHealth agrees with this recommendation. MassHealth will implement a system edit to prevent AFC and GAFC providers from submitting claims for AFC / GAFC services when coded as telehealth.

As noted above, because personal care is a type of care that cannot be delivered via telehealth, AFC and GAFC providers were not—and are not—permitted to use telehealth for the delivery of personal care. MassHealth appreciates that the [Office of the State Auditor] draft report acknowledges that the identified claims were billed as telehealth in error and that AFC / GAFC services were in fact rendered in person and based on the auditor's review of provider documentation. MassHealth further notes this error appears to be concentrated to a small percentage of providers within the network with only 5 out of 268 providers having billed claims coded as telehealth. As noted above, MassHealth agrees with the recommendation and will implement an edit to prevent the ability for AFC / GAFC claims to be submitted when coded as telehealth.

Auditor's Reply

Based on its response, MassHealth agrees with our recommendation and plans to implement the system control to prevent providers the ability to submit claims for AFC and GAFC as telehealth. We will be conducting a post-audit review in approximately six months to follow up.