Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump
Making government work better

Official Audit Report – Issued July 27, 2018

Office of Medicaid (MassHealth)—Review of Drug Testing Frequency

For the period July 1, 2012 through June 30, 2016

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July 27, 2018

Ms. Mary Lou Sudders, Secretary
Executive Office of Health and Human Services
1 Ashburton Place, 11th Floor
Boston, MA 02108

Dear Secretary Sudders:

I am pleased to provide this performance audit of the Office of Medicaid's (MassHealth's) drug testing frequency. This report details the audit objective, scope, methodology, findings, and recommendations for the audit period, July 1, 2012 through June 30, 2016. 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 MassHealth for the cooperation and assistance provided to my staff during the audit.

Sincerely,

Suzanne M. Bump
Auditor of the Commonwealth

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

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LIST OF ABBREVIATIONS

BSAS	Bureau of Substance Abuse Services
CMR	Code of Massachusetts Regulations
CMS	Centers for Medicare & Medicaid Services
DPH	Department of Public Health
E/M	evaluation and management
MASH	Massachusetts Alliance for Sober Housing
MMIS	Medicaid Management Information System
NPI	National Provider Identifier
OSA	Office of the State Auditor
SAMHSA	Substance Abuse and Mental Health Services Administration
SUD	substance use disorder

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's drug tests for the period July 1, 2012 through June 30, 2016. During this period, MassHealth paid laboratories approximately $39,771,152 to provide drug tests for 240,711 MassHealth members. The purpose of this audit was to review the drug tests that MassHealth paid for during the audit period and determine whether the nature and frequency of testing complied with MassHealth regulations, which allow authorized prescribers treating MassHealth members to order and use drug tests for diagnosis, treatment, or otherwise medically necessary purposes.

The audit was conducted as part of OSA's ongoing independent statutory oversight of the state's Medicaid program. A previously issued OSA audit report (No. 2012-1374-3C) disclosed significant weaknesses in MassHealth's claim-processing system for drug tests, which resulted in millions of dollars in potentially improper 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.

Finding 1 **Page 11**	MassHealth may have paid as much as $6.2 million for unnecessary drug tests.
Recommendations **Page 15**	1. MassHealth should establish controls to ensure that it only pays for drug tests that are used for diagnosis, treatment, and otherwise medically necessary purposes. 2. MassHealth should ensure that all claim submissions include the referring provider's identification number. MassHealth should use this information to create a system edit and/or monitor claims to limit payments for drug tests to those ordered by authorized prescribers who are currently treating the members. 3. MassHealth should require laboratories to send all drug test results directly to the prescribing providers who ordered them.
Finding 2 **Page 20**	MassHealth may have paid for improper drug tests provided to members residing in sober homes.
Recommendations **Page 23**	1. If MassHealth wants to continue to enforce its current regulations and not allow providers to bill for drug tests for residential monitoring, it should work with officials at the Bureau of Substance Abuse Services to ensure that it does not pay for such tests. Sober homes may want to explore the possibility, if practical, of using low-cost drug test kits that can be used on site to provide immediate results rather than having laboratories perform these tests. 2. MassHealth should perform periodic reviews of laboratory drug test order forms and laboratory result reports to monitor whether laboratories are billing for medically necessary drug tests.
Finding 3 **Page 25**	MassHealth paid $21,073 for drug tests that were not supported by proper documentation.
Recommendations **Page 26**	1. MassHealth should work with drug test laboratories to ensure that they obtain and retain proper documentation of drug test orders and results for each drug test provided to a MassHealth member. 2. MassHealth should collaborate with the laboratory discussed in this finding to establish a plan for repayment of the $21,073 in overpayments for improper laboratory drug test billings.

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 eligible low- and moderate-income children, families, seniors, and people with disabilities. In fiscal year 2016, MassHealth paid healthcare providers more than $14.8 billion, of which approximately 50% was funded by the Commonwealth. Medicaid expenditures represent approximately 39% of the Commonwealth's total annual budget.

According to Section 401 of Title 130 of the Code of Massachusetts Regulations, MassHealth pays for drug tests provided to eligible MassHealth members. These drug tests must be ordered by providers who use the tests for diagnosis, treatment, or other medically necessary purposes. For the four-year period July 1, 2012 through June 30, 2016, MassHealth paid approximately $39,771,152 to laboratories for drug tests for 240,711 MassHealth members, as detailed below.

Year	Number of Drug Tests	Amount Paid	Members Served*
July–December 2012	372,858	$ 8,131,920	43,442
2013	657,927	11,609,908	98,976
2014	550,385	8,286,150	108,925
2015	464,849	7,414,465	92,278
January–June 2016	186,692	4,328,709	59,028
Total	2,232,711	$39,771,152	

* Some members are counted in more than one row of this column. The unduplicated total number of members served is 240,711.

Drug Testing as a Tool

The federal Substance Abuse and Mental Health Services Administration (SAMHSA) states in its Treatment Improvement Protocols 40, 43, and 47 and in its Technical Assistance Publication 32 that drug tests are a necessary tool to diagnose, assess, treat, and monitor patients' health and progress in combating substance use disorders (SUDs). These guidelines emphasize that drug tests should be used in conjunction with related medical procedures because they are not medical services in themselves, but can help doctors optimize patient outcomes as part of medical treatment. Technical Assistance Publication 32 states,

> *Testing may provide unexpected information, but should never be the sole basis for diagnosis and treatment decisionmaking. Test results should be used to supplement the information obtained from a comprehensive patient interview, the physical examination, and consideration of the patient's overall health. . . .*
>
> *For the patients receiving medications, particularly opioids, with abuse potential, drug tests can be done during every visit, randomly, before providing prescription refills, or if the patient exhibits aberrant behavior.*

Appendix B of Treatment Improvement Protocol 47 states, "Routine specimen collection after admission [to an outpatient treatment program] should take place in conjunction with regular clinic visits." It adds that during intensive outpatient treatment, programs may want to consider "requiring that all clients provide a specimen on every [treatment] visit."

MassHealth's own regulations in this area mirror SAMHSA's guidelines: they require prescribers of drug tests to use the test results in treating patients.

Urine testing is the most commonly used method of detecting drug use because it is regarded as the most accurate and least expensive method. The document also states that other testing methods, such as testing of saliva, sweat, hair, or blood, have shortcomings that make them largely impractical for monitoring drug use.

Drug testing is performed by clinical laboratories. Some are independent, freestanding laboratories; some are affiliated with hospitals, community health centers, and hospital-licensed health clinics; and others, such as SUD treatment centers or physicians' offices, are owned by medical professionals.

Drug tests are typically used by SUD treatment professionals to (1) stabilize members on the proper dosages of methadone or buprenorphine (controlled substances used to treat opioid addiction) and (2) monitor members to determine whether they are abstaining from illicit drugs and not engaging in diversion.[1] In themselves, drug tests are not treatment; they are a necessary tool that healthcare professionals use when diagnosing and treating patients. Therefore, MassHealth regulations require that providers ordering drug tests do so in writing, indicating that the drug tests are for the purpose of diagnosing and treating MassHealth members.

1. Diversion is the use of a controlled substance in an unlawful manner, such as selling suboxone (a narcotic) to people for whom it is not prescribed.

Similarly, the Massachusetts Department of Public Health's Bureau of Substance Abuse Services (BSAS) recently issued the document *Practice Guidance: Drug Screening as a Treatment Tool,* which discusses the use of drug screening as a treatment tool to improve prevention and treat SUDs.

Frequency of Drug Testing

As discussed above, drug tests are a tool that healthcare professionals use when diagnosing and treating MassHealth members. MassHealth has not created regulations or Provider Bulletins on the frequency of drug testing specifically for members suffering from SUDs. MassHealth currently allows members to receive one drug test daily.

The following table shows the frequency with which drug tests are ordered by healthcare professionals who treat patients for SUDs, according to treatment guidelines and protocols for SUD treatment published by the Centers for Medicare & Medicaid Services and SAMHSA.

Treatment Phase	Duration	Frequency of Drug Testing
Induction	0–30 days of abstinence	1–3 times weekly
Stabilization	31–90 days of abstinence	1–3 times weekly
Maintenance	91 or more days of abstinence	1–3 times monthly

Drug Detection Times

Another factor to consider when determining the frequency of drug tests is drug detection times. Substances ingested by the human body are eliminated over time. The length of time that a substance remains in a person's body and can be detected through drug testing is called detection time or elimination rate. Detection times offer scientific benchmarks that can be used to determine how frequently a patient should be drug tested.

The detection time for many drugs is between two and four days. Considering detection times, testing more frequently than every third or fourth day may not be medically necessary, according to Appendix B of SAMHSA's Treatment Improvement Protocol 47:

> *Under ideal conditions . . . [urine] collection should occur not less than once a week or more frequently than every 3 days in the first weeks of treatment. It is important that the scheduled frequency of urine collection match the usual detection window for the primary drug. Too long an interval between urine tests can lead to unreliable results because most of the target drug and its*

metabolites will have been excreted. On the other hand, if the interval between tests is too short, a single incidence of drug use may be detected twice in separate urine samples.

Since drug tests, which are a tool, are valid for a short period given their detection times, it is essential that healthcare providers use the results in a timely manner when treating their patients via evaluation and management, counseling, or therapy. Healthcare providers should monitor drug test results on a timely basis when treating patients. If drug test results are not reviewed in a timely manner—for example, within four days—the patient's condition may change and the drug test results may not be useful in making treatment program decisions, monitoring illicit substance use, adjusting medication dosage, and deciding whether a patient is responsible enough to receive take-home medication.

Sober Homes and Limits on Residential Monitoring

Sober Homes

"Sober home" is a general term used to describe a shared living environment that promotes sober, safe, and healthy living to encourage its residents to recover from alcohol use, drug use, and related issues. Some sober homes are not very structured; others have very specific rules, such as curfews and mandatory in-house meetings, and encourage residents to seek treatment from medical professionals to address their drug and alcohol use.

MassHealth members can live in one of three types of sober home to assist in their recovery from SUDs:

- Privately owned sober homes that are not certified by the state. These residences do not provide SUD treatment to residents, because they are not operated by SUD treatment professionals.
- Privately owned sober homes that are certified by the state and must adhere to the requirements of a state-approved vendor, the Massachusetts Alliance for Sober Housing. State agency employees who wish to refer individuals under their care to sober homes must choose homes that are state certified. These residences do not provide SUD treatment to residents because they are not operated by SUD treatment professionals.
- Recovery homes that are licensed by BSAS as either short-term or long-term residential facilities, some of which may provide varying levels of SUD treatment. These facilities are licensed and managed by BSAS.

Drug Tests for Residential Monitoring

Many sober homes require residents to be drug tested two to three times per week. This type of testing is referred to as residential monitoring, since the sober home requires it in order to ensure that a resident is not abusing alcohol or drugs. The testing is not correlated with a member's specific SUD treatment. Although this type of testing may be a policy of sober homes, current MassHealth regulations do not cover drug tests for "purposes of civil, criminal, administrative, or social service agency investigations, proceedings, or monitoring activities" or "residential monitoring purposes." Rather, sober homes are responsible for covering the costs of such tests as part of their operating budgets.

Since our last audit report (No. 2012-1374-3C), we have found that MassHealth has taken several initiatives to limit drug test costs, including reducing rates paid for drug tests; limiting the number of drug classes paid for per drug test; and strengthening documentation requirements for drug test authorizations, including requirements for order forms and standing orders. However, these initiatives did not address the issue of high-frequency drug testing, nor did they prevent the improper use of drug testing for residential monitoring. The current statuses of both of these issues are discussed in this report.

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 drug test claims paid by MassHealth for the period July 1, 2012 through June 30, 2016.

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 MassHealth only pay for drug tests that were used for diagnosis, treatment, or otherwise medically necessary purposes?	**No; see Findings 1, 2, and 3**

We interviewed officials at MassHealth and the Bureau of Substance Abuse Services (BSAS) to obtain an understanding of drug test policies and practices, which we then applied when reviewing claim submissions for MassHealth members living in BSAS-licensed recovery homes and other sober homes. Additionally, we met with a substance use disorder (SUD) treatment professional at Boston Medical Center to discuss various aspects of sober-home drug testing.

We gained an understanding of internal controls for laboratory drug testing at MassHealth and evaluated the design of the controls over MassHealth's billing process that we deemed significant to our audit objective.

We queried the Medicaid Management Information System (MMIS) to extract all fee-for-service claims and encounter services[2] provided to members who received drug tests. Additionally, we extracted members' address information to compare their addresses with those of BSAS-licensed recovery homes and other sober homes.

2. Encounter services are services provided by MassHealth's managed-care organizations.

To assess the reliability of the data obtained from MMIS, 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, OSA reviewed existing information, tested selected system controls, and interviewed knowledgeable agency officials about the data. Additionally, we performed validity and integrity tests on all drug test claim data during our audit period, including (1) testing for missing data, (2) scanning for duplicate records, (3) testing for valid data, (4) looking for dates outside specific 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.

We performed the following data analyses on all drug test claims paid by MassHealth:

- We performed summarization analyses of the laboratories with the largest billings for drug tests.
- We performed summarization analyses of the 150 members with the most drug tests, out of all 240,711 members drug tested during the audit period, and performed reviews of these members' addresses to identify possible sober-home addresses.
- We used data analytics to compute the days between one drug test and the next for each of the 240,711 members drug tested during the audit period. This analysis helped us identify how frequently members were drug tested, as well as the number of times a member was drug tested within one day of a previous drug test, two days, three days, etc.
- We used data analytics to calculate the number of drug tests received by members who received no other medical services within 7 days and 15 days before or after the drug test. We selected 7 days and 15 days for our analyses because most members who require frequent drug testing are receiving SUD treatment. Follow-up visits with patients are scheduled either weekly or monthly, and a 31-day period (15 days before and after a given date) should encompass monthly visits, according to industry guidelines on addiction treatment services from the federal Substance Abuse and Mental Health Services Administration's Technical Assistance Publication 32 and Treatment Improvement Protocols 40, 43, and 47; the American Society of Addiction Medicine's *Drug Testing: A White Paper*; the Centers for Medicare & Medicaid Services' *Local Coverage Determination for Urine Drug Testing;* MassHealth regulations; and our discussions with SUD treatment professionals.
- For the 74,347 members, out of the previously mentioned 240,711, who were drug tested during the audit period but did not have any other medical services, we performed a query to calculate all drug tests paid for while the members lived in sober homes certified by the Massachusetts Alliance for Sober Housing (MASH), in privately owned sober homes, or in BSAS-licensed recovery homes.

When comparing member drug tests to determine whether the members received other medical services, OSA developed a list of 168 procedure codes for services that members might also have received at the time of their drug tests. We developed this list from Section 346 of Title 101 of the Code of Massachusetts Regulations (CMR) for all substance-related and addictive-disorder-related procedure codes, 101 CMR 306 for all mental-health services provided in community health centers and mental-health centers, and 101 CMR 317 for all evaluation and management (E/M) services and other medical services. This exhaustive list included all behavioral-health services, all psychiatry and psychotherapy services, all emergency-room and crisis-intervention services, and all E/M services that OSA determined a member might have received in conjunction with the drug testing. We provided this list to MassHealth officials.

We developed a master table of all sober-home addresses to test whether members might have received drug tests for residential monitoring. We created this table by researching the Department of Public Health's MASH website, performing general Internet searches on sober homes in Massachusetts, and searching the business entity database for the Corporations Division within the Office of the Secretary of the Commonwealth of Massachusetts. This is not a complete list of sober homes in Massachusetts, since a comprehensive list is not readily available.

We selected a judgmental sample of three laboratories for site visits based on an isolated risk factor: these laboratories were among the top 10 providers that performed drug tests for the most frequently tested members during the audit period. From these 10 providers, we selected various provider types (e.g., hospitals, SUD treatment centers, or independent clinical laboratories) to gain an understanding of drug testing at different provider types. Then we selected a judgmental sample of 45 members who received the most drug tests (15 from each of the three laboratories) out of the 332 most frequently drug tested members. We obtained paper or online copies of laboratory order forms and result reports to review for prescriber authorizations and compare dates of drug tests to other medical services the members received. Since this test used nonstatistical sampling, we did not project any identified errors to the population of drug test claims.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. MassHealth may have paid as much as $6.2 million for unnecessary drug tests.

During our audit period, MassHealth may have unnecessarily paid as many as 194,232 claims, totaling as much as $6.2 million, for drug tests that were not ordered for diagnosis, treatment, or other medically necessary purposes. In many instances, MassHealth paid for drug tests for members who were tested at high frequencies (one, two, or three days apart) but did not receive any related medical treatments or services within a timeframe in which it was reasonable to expect them to receive such treatments according to professional guidelines. These funds could have been used to pay for other medical services to MassHealth members.

The Office of the State Auditor (OSA) initially performed site visits at three laboratories: a hospital laboratory, a freestanding independent clinical laboratory, and a substance use disorder (SUD) treatment facility laboratory. At these laboratories, we reviewed all claims for a judgmental sample of 15 MassHealth members who received the most drug tests from each laboratory. For each member, we reviewed all order forms and results for every drug test performed. When reviewing the information from the hospital laboratory and the SUD treatment facility laboratory, we found that all drug tests were properly documented as being for diagnosis, treatment, or other medically necessary purposes.

However, when reviewing the information from the freestanding independent clinical laboratory, we found that all drug test order forms for 12 of the 15 members in our sample appeared to have been authorized by the laboratory and not by the healthcare professional listed on the order form. Therefore, it was questionable whether they were used as a tool to diagnose or treat the members as required by MassHealth regulations. In addition, through data analysis, we learned that none of these 12 members had received any other medical services at the time of the drug testing that would have necessitated the testing (e.g., SUD counseling, emergency-room visits, therapy, or evaluation and management [E/M] services), which raised concerns about whether the tests were used to treat the members.

The table below summarizes the results of our analysis in this area.

Laboratory	Total Drug Tests in Sample	Total Paid When Other Medical Services Were Received	Total Paid When No Other Medical Services Were Received
Hospital Laboratory	1,501	$36,216	$0
SUD Treatment Facility Laboratory	1,794	$30,415	$0
Freestanding Independent Clinical Laboratory	2,722	$0	$21,073

Based on the results of our site visits, our follow-up with a SUD treatment professional, and our own analysis of member drug tests, we performed data analytics to determine whether all drug test claims paid by MassHealth during our audit period correlated with medical services provided by healthcare professionals, who typically use drug tests as a tool when diagnosing and treating members and when developing treatment plans for members with SUDs or providing chronic opioid therapy (a type of pain management). As part of this analysis, we considered the effect of detection times to determine how long a drug test result is useful to a provider as a tool to measure any illicit drug use. For example, if a member receives a drug test and the results are not evaluated or used by the provider, discussed with the member, or used to update the member's treatment plan in a timely manner, the drug test may not have been necessary.

Using this information, our data analysis focused on comparing drug test dates of service with other medical services[3] the member received within the 7 days before and after the drug test. We also performed this analysis using services received within the 15 days before and after the drug test. We selected 7 days and 15 days for our analyses because healthcare professionals who treat patients for SUDs and chronic pain require frequent drug testing, during patient office visits and when new prescriptions are written.

Our results indicated that approximately $3.3 million and as much as $6.2 million, respectively, was paid when the members had not had any related medical treatment requiring the use of drug test results:

3. Medical services associated with ordering drug tests could include SUD counseling, emergency-room visits, E/M, or therapy.

Days Analyzed	Questioned Claims	Questioned Costs
No other medical services within 7 days before or after the drug test	194,232	$6,165,525
No other medical services within 15 days before or after the drug test	87,022	$3,281,628

In addition to identifying drug tests paid for by MassHealth for which there were no corresponding medical services provided within a 15- or 30-day timeframe, we found that some MassHealth members were frequently drug tested without having any other related medical services well beyond our established timeframes. Some examples are below.

- One member was drug tested on Tuesdays, Thursdays, and Saturdays, at an average of 12 times per month, for 8 months, receiving a total of 95 drug tests costing $4,069. The only medical service this member received during this time was one E/M service.
- One member was drug tested on Tuesdays and Saturdays, at an average of 7 times per month, for 9 months, receiving a total of 65 drug tests costing $3,171. The only medical service this member received during this time was one hospital outpatient visit.
- One member was drug tested on Tuesdays and Saturdays, at an average of 5 times per month, for 14 months, receiving a total of 75 drug tests costing $3,659. The only medical services this member received during this time were one hospital outpatient visit and two E/M services.
- One member was drug tested on Mondays, Wednesdays, and Fridays, at an average of 9 times per month, for 5 months, receiving a total of 46 drug tests costing $2,306. This member did not receive any other medical services during this time.

Authoritative Guidance

"Authorized prescriber" is defined by Section 401.402 of Title 130 of the Code of Massachusetts Regulations (CMR) as follows:

> *Any individual who is authorized under state law to prescribe drugs pursuant to M.G.L. c. 94C and also authorized to order the test under M.G.L. c. 111D and for the sole purpose of ordering medically necessary drug screen services, Massachusetts Department of Public Health licensed substance abuse treatment programs only when such requests are initiated in writing by a physician who is employed or contracted by the substance abuse treatment program to make such requests and whose written request fully complies with all requirements set forth in 130 CMR 401.416(A) through (C).*

According to 130 CMR 401.416(A), MassHealth only pays for drug tests when a medical professional uses their results when treating its members:

> *The independent clinical laboratory may not bill for a [drug testing] service unless it has received a written request to perform that specific service from an authorized prescriber who is treating the member and will **use the test** [emphasis added] for the purpose of diagnosis, treatment, or an otherwise medically necessary reason.*

Most drug testing occurs in SUD treatment settings. According to Appendix B of the federal Substance Abuse and Mental Health Services Administration's (SAMHSA's) Treatment Improvement Protocol 47, which sets forth industry guidelines on addiction treatment services and drug testing, "Routine specimen collection after admission should take place in conjunction with regular clinic visits." Additionally, according to Boston Medical Center's[4] Office Based Addiction Treatment Manual, office visits for patients undergoing SUD treatment occur every 7, 15, or 30 days and drug tests are performed at each of these visits:

> *Patient sees Nurse Care Manager weekly for 4–6 weeks until stable [no longer using illicit drugs]. If urine screens are negative, patient is attending counseling and weekly clinic visits as scheduled, they then may progress to the maintenance phase. . . .*
>
> *Once stable, clinic visits every 2 to 4 weeks, with refills that coincide with visits. . . .*
>
> *Urine samples will be required at each visit.*

Based on these standards, it is reasonable to expect that medical services, such as office visits, should occur in most situations within 15 days before or after a drug test.

Reasons for Improper Payments

MassHealth does not have adequate internal controls in place to ensure that drug tests are ordered for medically necessary purposes. Instead, order forms and urine samples are sent directly to laboratories for processing, and the laboratory personnel do not always know whether authorized prescribers of drug tests have ordered them for diagnosis, treatment, or otherwise medically necessary reasons. Further, MassHealth does not conduct any reviews of laboratory order forms and result reports to determine whether drug tests are ordered only for diagnosis, treatment, or otherwise medically necessary purposes.

In addition, because MassHealth does not require referring-provider information to be included in each claim submission, it cannot effectively track whether providers prescribing drug tests are affiliated with

4. We referred to this policy because Boston Medical Center is the largest SUD treatment provider in the Boston area and funding for its Office Based Addiction Treatment Manual was provided by the Massachusetts Department of Public Health.

SUD treatment services or programs and are ordering the drug tests for diagnosis, treatment, or otherwise medically necessary purposes.

Recommendations

1. MassHealth should establish controls to ensure that it only pays for drug tests that are used for diagnosis, treatment, and otherwise medically necessary purposes.

2. MassHealth should ensure that all claim submissions include the referring provider's identification number. MassHealth should use this information to create a system edit and/or monitor claims to limit payments for drug tests to those ordered by authorized prescribers who are currently treating the members.

3. MassHealth should require laboratories to send all drug test results directly to the prescribing providers who ordered them.

Auditee's Response

MassHealth disagrees with the finding that it may have paid as much as [$6.2] million for unnecessary drug tests. . . .

OSA based its [$6.2] million finding on its determination that at one of the three labs reviewed, . . . "drug test order forms for 12 of the 15 members in our sample appeared to have been authorized by the laboratory and not by the healthcare professionals on the order form. Therefore, it is questionable whether they were used as a tool to diagnose or treat the members as required by MassHealth regulations."

MassHealth reviewed the sample provided by OSA and found that the documentation provided by the clinical laboratory did not include sufficient documentation required under 130 CMR 401.416 (Request for Laboratory Services). Based on OSA's findings, MassHealth will further review this independent clinical laboratory provider to ensure that the services it provides meet all applicable regulations including 130 CMR 401.416.

OSA also observes, "In addition, through data analysis we learned that none of these 12 members had received any other medical services at the time of the drug testing that would have necessitated the testing (e.g., SUD counseling, emergency room visits, therapy, or evaluation and management [E/M]), which raises concerns about whether the tests were used to treat members." OSA then goes on to extrapolate that all claims for drug tests in which the member did not have a claim for an "associated" medical services within seven or 15 days before or after the test may have been improperly paid. As described in detail below, MassHealth strongly disagrees with OSA's extrapolation methodology and associated finding.

While drug tests must be ordered by authorized prescribers as part of medically necessary treatment, OSA references no authority for its conclusion that drug testing must be "necessitated" through the provision of particular medical services within a particular timeframe. That standard is without basis in MassHealth regulations or clinical guidance, and apparently reflects the OSA's own opinion. Because OSA's requirement of a particular "necessitating service"

is its own opinion, no authority is referenced for OSA's clinical determinations of which medical services are considered "necessitating services" and which are not. Instead the audit report offers a non-exclusive list of "necessitating services" comprising three items: counseling, therapy, and evaluation and management. Emphasizing the vague and fluid nature of OSA's medical necessity construct, OSA later states that it "focused on comparing drug test dates of service with other medical services the member received (around the same date of service)" and provides a different non-exclusive list of services, which it no longer characterizes as "necessitating" drug testing: "Medical services associated with ordering drug tests could include SUD counseling, emergency room visits, evaluation and management services, or therapy."

OSA compounds these methodological problems by establishing two arbitrary time parameters during which a service from OSA's list of "necessitating" or "associated" services must occur: either within seven or 15 days before or after the date of the drug test. OSA states that it chose those parameters because "(Substance Use Disorder or SUD) treatment professionals indicated that they require follow-up visits with their patients either weekly or monthly, and a 31-day period (15 days before and after a given date) should encompass monthly visits," noting that "most members requiring frequent drug testing are receiving SUD treatment." Because the notion of "necessitating" or "associated" medical services has no basis in MassHealth regulations or clinical guidelines, neither does the creation of a period during which those designated services must occur. There are no regulations in place nor clinical requirements establishing an appropriate or required proximity between medical services and drug tests for substance abuse monitoring. For example, members in a maintenance or continuation of care phase of treatment may be receiving randomized drug testing without having a regular visit to their treatment providers. Even if there were a basis for creating such a timeframe, consulting with several providers representing only one provider type authorized to order drug tests would be an inadequate approach to creating the timeframe.

OSA's process for selecting these timeframes reflects another broad issue with OSA's methodology: it appears to only consider drug testing in the context of substance use disorder services. From the preliminary sections of its report to the providers and entities discussed in the report, the report reflects an assumption that the tests represented in its finding must have been performed to treat substance use disorders. The assumption ignores that there are other medically necessary reasons why a member might receive drug testing. For example, it is standard practice for patients prescribed long term opioid use for pain management to be routinely drug tested. OSA did not consult with any pain management providers, nor did it identify any clinical documentation supporting the appropriate use of drug testing for pain management. The Massachusetts Department of Industrial Accidents published an Opioid/Controlled Substance Protocol in May 2016. . . . For ongoing long term opioid management, the protocol recommends visits every 2–4 weeks for the first 2–4 months of treatment and then every 6–8 weeks later in treatment. This highlights the arbitrary nature of OSA's designated timeframes, as there would no basis for denying drug test claims in such a case simply because no other services were provided within a 15- or 31-day window around the test.

MassHealth also determined that OSA took no steps to determine whether members were enrolled for the duration of the 15- and 31-day windows it established. Even by OSA's terms, tests for members that added or lost coverage within those windows could have been

"necessitated" by services that were received before or after MassHealth coverage was effective, but still classified as "unnecessary." Similarly, OSA's method does not account for members that change coverage, for instance, from a MassHealth fee for service plan to a managed care plan. For those members enrolled in a managed care plan, it is the managed care plan and not MassHealth who pays for the members' claims. The methodology MassHealth reviewed did not describe steps OSA took to ensure that members were in a MassHealth fee for service or Primary Care Clinician plan for the duration of the 15- and 31-day windows. . . .

Although MassHealth does not agree with OSA's methodology for identifying unnecessary claims, MassHealth supports the effort to identify medically unnecessary testing. As noted in the executive summary, MassHealth continually establishes, updates, and refines controls as part of its broader efforts to strengthen program integrity, including identifying providers with increased billing activity or aberrant billing practices. For certain drug screening and testing providers, MassHealth has been suspending these providers' claims prior to payment and requiring submission of additional documentation. Further, MassHealth has been reviewing providers who consistently bill high level definitive testing. For these providers, MassHealth plans to suspend the relevant claims and require submission of additional documentation to ensure the claims meet applicable regulations and are medically necessary. MassHealth also has been reviewing utilization to identify those members that receive a high volume of drug testing, and is the process of developing strategies to ensure that those members' claims are medically necessary. . . .

MassHealth implemented regulation and billing instruction changes in October 2017 requiring providers to include the ordering or referring provider's national provider identification (NPI) number on claims requiring an order or referral and to verify such providers' eligibility. The change applies to services provided by independent clinical laboratory providers. The change, which is detailed in All Provider Transmittal Letter [223] and the mass.gov website, . . . required MassHealth to establish new enrollment processes for ordering and referring providers. Additionally, this project required MassHealth to work closely with state licensure boards to establish MassHealth enrollment as a licensure requirement. At this time, MassHealth is editing claims against this requirement, though claims are not yet being denied. MassHealth is identifying providers who are routinely omitting the ordering NPI on claim transactions.

MassHealth's customer service department is planning targeted outreach to ensure greater compliance prior to denial of claims missing the NPI.

MassHealth disagrees however, that OSA's proposed system edit is either appropriate or practical. As discussed in MassHealth's response to finding 1, MassHealth regulations do not establish a definition for which providers are "currently treating" a member, nor would it be practical to do so, given the range of treatment protocols and approaches for individual members' circumstances. Also, determining which authorized prescriber or prescribers are "currently treating" a member poses practical challenges—as illustrated [above], it would not be appropriate to rely on claims transaction data alone to make such a determination. . . .

The Department of Public Health's Clinical laboratory regulations 105 CMR 180.290 . . . establishes the reporting and recordkeeping standards for all licensed Massachusetts clinical

laboratory providers. The regulation states: "The laboratory report shall be sent promptly to the licensed physician or other authorized person who requested the test. . . ."

Auditor's Reply

Our report explains that our $6.2 million calculation was not based on the results of our audit testing at one laboratory; rather, our audit work at laboratories was only the initial testing we conducted that helped us identify what appeared to be a high risk of improper payments for drug testing. As noted in this report, after analyzing the information from the testing at the laboratories, OSA performed data analytics on the whole population of payments made by MassHealth during the audit period and based our results on our analysis. We did not extrapolate results of our site visit audit testing to the entire population of drug tests, since our test samples at the three laboratories were judgmental. Extrapolation of errors to a population can only be performed when a statistical sampling method is used. Our questioned amount of $6.2 million was determined by performing a separate, independent calculation using the population of all MassHealth member claim data.

We acknowledge that there are no standards in MassHealth regulations that require members who are drug tested to receive related medical services within a specific time. However, as previously noted, SAMHSA guidelines state that drug tests are prescribed as part of a treatment program that involves other medical services. Appendix B of SAMHSA Treatment Improvement Protocol 47 states that drug tests should occur as a "routine part of therapy . . . in conjunction with regular visits," and SAMHSA Technical Assistance Publication 32 states that drug tests should "never be the sole basis for diagnosis and treatment decisionmaking," "should not be the only tool" used in treating patients, and "can be done randomly, during every visit, before providing prescription refills, or if the patient exhibits aberrant behavior." In addition, MassHealth's own regulations recognize the relationship that should exist between drug testing and other medical services: they require healthcare professionals to use the drug tests ordered when they are treating their patients. OSA constructed a timeframe that was not arbitrary but was based on SAMHSA Treatment Improvement Protocols and Technical Assistance Publications, and OSA believe it to be a reasonable period of time during which a member who is drug tested should have received some other related medical services. The information we used to construct this timeframe includes (1) the fact that it specifically matches the weekly, biweekly, and monthly office visits that our research indicated SUD treatment professionals require while members are going through the three phases of their recovery treatment; (2) the usefulness of drug test results based on drug detection times, described in the Overview of Audited Entity section of this report; and (3) the fact that

prescriptions for medications used to treat SUDs and chronic pain typically do not exceed 30 days, which means a medication visit is required in that timeframe.

Although it is not detailed in this report, even looking beyond our established timeframes, we found that a significant number (31%) of our questioned costs included drug tests when the members did not receive any medical services at all within 60 days of the test date (for 30 days before and 30 days after). We also found many instances of members receiving frequent drug testing for even more extended periods (e.g., for many months) with minimal or no other related medical services. In OSA's opinion, these analytical results call into question whether much of the questioned testing was actually used in the treatment of members and whether it represents situations that at least should be reviewed by MassHealth.

OSA did consider members receiving chronic opioid therapy in our analysis. In doing so, OSA found that, according to SAMHSA's Technical Assistance Publication 32, chronic opioid therapy patients must be closely monitored for medication adjustments and to prevent opioid abuse. Therefore, it was reasonable for OSA to look for office visits in relation to the drug testing provided to these members in our sample. Further, our analysis included drug testing paid for by managed-care organizations as well as drug testing that was paid for directly by MassHealth on a fee-for-service basis and therefore accurately accounts for any members who may have switched their form of coverage during the period reviewed.

Although our report only cites a few medical services that we believe should have been provided in relation to members' drug testing, our analysis in this area used a comprehensive list of 168 procedure codes derived from MassHealth's own provider manuals (the Substance Abuse Disorder Treatment Manual, Mental Health Center Manual, and Physician Manual) that relate to drug testing. OSA shared this list of 168 procedure codes that we were going to use in our analysis with MassHealth during the audit, and MassHealth officials did not express any concerns about its being exclusive or not comprehensive enough to use in our analysis.

MassHealth cites the Department of Industrial Accidents' *May 2016 Opioid/Controlled Substance Protocol* as recommending infrequent provider visits for long-term opioid pain management. In fact, this document states that patients receiving such treatment should have random drug screenings "at least twice and up to 4 times per year, or more if clinically indicated, for the purpose of improving patient care."

Regarding our recommendation that MassHealth create a system edit to detect questionable drug testing, OSA does not dispute MassHealth's assertion that its regulations do not establish a definition for when providers are "currently treating" a member. However, OSA believes that it would be practical for MassHealth simply to create a system edit that would deny any claim if the provider's National Provider Identifier (NPI) field were left blank. During our audit period, MassHealth did not require laboratories to include ordering physicians' NPI numbers when submitting claims for drug tests. Therefore, MassHealth did not have the necessary information to determine whether healthcare professionals used the tests to diagnose and treat its members in accordance with its regulations. MassHealth states that, effective October 2017, it required all laboratory claim submissions, including drug tests, to list the ordering and referring providers' NPI numbers. However, OSA reviewed claim data from drug test claim submissions between November 2017 and April 2018 and found that only 2 out of the 804 claims submitted listed the prescribing provider's NPI number. If MassHealth plans to use prescribing providers' NPI numbers to monitor drug test claims more closely and help it identify high-risk ordering providers, it needs to ensure that all drug test claim submissions include NPI numbers.

Regarding OSA's recommendation that MassHealth require laboratories to send drug test reports to the ordering prescribers, MassHealth states that there already is a regulation that requires this; it refers to the Department of Public Health (DPH) regulation 105 CMR 180.290. Although this may be true, our audit found that many drug test reports were sent directly to sober-home addresses and not to the ordering prescribers, and therefore MassHealth needs to take additional measures to ensure compliance with this requirement.

2. MassHealth may have paid for improper drug tests provided to members residing in sober homes.

MassHealth may have improperly paid at least $741,621 for drug tests for 1,753 members living in either certified or non-certified privately owned sober homes or recovery homes licensed by the Bureau of Substance Abuse Services (BSAS). Since the members were not in treatment or receiving any medical services at or around the time of the drug tests,[5] it appears that the tests were performed for residential monitoring purposes. To make this determination, we compared addresses of members whose drug tests appeared not to have been used for diagnosis, treatment, or other medically necessary reasons with addresses of BSAS-licensed recovery homes and other sober homes that we identified by

5. To determine whether members who were drug tested had any other medical services provided to them at or around the times of the drug tests, OSA used the same 15- and 30-day periods discussed in Finding 1.

researching DPH's Massachusetts Alliance for Sober Housing (MASH) website, performing general Internet searches on sober homes in Massachusetts, and searching the business entity database for the Corporations Division of the Office of the Secretary of the Commonwealth. Based on this data analysis, we determined that MassHealth might have paid for drug tests used by BSAS-licensed recovery homes and other sober homes for residential monitoring. Below is a summary of the questioned drug tests for each member who was residing in a BSAS-licensed recovery home or other identified sober home and was drug tested when no other medical services were received that would necessitate the test.

Member Location	Number of Drug Tests When No Other Medical Services Were Received	Amount Paid	Members Identified
Certified or Non-Certified Privately Owned Sober Home	14,824	$ 294,273	694
BSAS-Licensed Recovery Home	17,672	447,348	1,059
Total	32,496	$ 741,621	1,753

Some examples of members who lived in sober homes, were frequently drug tested, and did not receive any other medical services are as follows.

- One member living in a MASH sober home was drug tested on Mondays, Wednesdays, and Fridays, at an average of 9 times per month for 5 months, receiving a total of 46 drug tests costing $2,244. This member did not receive any other medical services during our audit period.
- One member living in a MASH sober home was drug tested an average of 5 times per month for 8 months, receiving a total of 37 drug tests costing $1,805. This member did not receive any other medical services during our audit period.
- One member living in a MASH sober home was drug tested on Tuesdays, Thursdays, and Sundays, at an average of 8 times per month, for 12 months, receiving a total of 92 drug tests costing $10,398. The only medical service this member received during our audit period was one routine medical exam in January 2013.
- One member living in a MASH sober home was drug tested on Mondays, Wednesdays, and Fridays, at an average of 9 times per month, for 72 months, receiving a total of 70 drug tests costing $4,419. The only medical services this member received during our audit period were one routine medical exam and two neurology services.

Another indicator of whether drug tests may have been for residential monitoring is whether they were routinely performed two to three days apart. When drug testing is performed in treatment settings (e.g., for SUD treatment and chronic opioid therapy), it is typically performed on random days instead and is not as frequent. Using data analysis, we found that some members were drug tested every two to three days on set schedules, e.g. every Monday, Wednesday, and Friday or every Tuesday, Thursday, and

Saturday. The frequency and routine nature of these drug tests exactly matched drug testing schedules listed on numerous MASH sober homes' websites. The routine nature of sober-home drug testing, in conjunction with the fact that many members are not receiving any other medical treatment from providers, demonstrates that this type of testing is for residential monitoring only. In fact, one medical provider we contacted stated that she submits 30-day standing orders, because sober-home residents that she treats are required to be drug tested one to three times per week on average. Her signature on drug test order forms provides laboratories with the supporting documentation required to bill MassHealth for drug tests.

The table below shows the drug testing history of MassHealth members living in three sober homes (one of each type of home). This illustrates the routine, scheduled nature of the drug tests paid for by MassHealth (e.g., each Monday, Wednesday, and Friday or Sunday, Tuesday, and Thursday) during the audit period.

	Tests Ordered at Certified Sober Home	Tests Ordered at Non-Certified Privately Owned Sober Home	Tests Ordered at BSAS-Licensed Recovery Home
Sunday	125	337	78
Monday	8	25	259
Tuesday	149	352	24
Wednesday	9	24	307
Thursday	143	301	25
Friday	5	13	264
Saturday	1	24	6

These sober homes may be performing these drug tests to create a safe and sober environment for all residents, many of whom are recovering from SUDs. However, because this type of drug testing is specifically related to residential monitoring, sober homes should ensure that the laboratories they use to perform these tests are aware that they are not allowed to bill MassHealth for these services. Further, there are drug test kits available that cost less than laboratory testing, and sober homes could use these test kits.

Authoritative Guidance

According to 130 CMR 401.411(B)(5), MassHealth does not pay for "tests performed for residential monitoring purposes."

Reasons for Noncompliance

SUD treatment professionals stated that sober homes ask them to sign drug test order forms as authorized prescribers for members for routine residential monitoring. One professional stated that she and her staff members have experienced situations where their patients were asked by sober homes to change providers when the SUD treatment professionals would not sign the order forms.

In addition, MassHealth does not have controls in place to determine when providers order drug tests for residential monitoring purposes. MassHealth relies on laboratories to ensure that drug test order forms are signed by authorized prescribers. However, the signatures alone do not enable laboratories to determine whether the drug tests will be used for treatment of the patient or for residential monitoring purposes (unless the order form lists the address of the sober home, which indicates that it is for residential monitoring). This is a particular concern when medical professionals sign order forms as a courtesy for their patients whose sober homes require them to have the order forms signed.

Finally, BSAS does not monitor its licensed recovery homes to ensure that they do not perform drug testing for residential monitoring. Likewise, BSAS's vendor, MASH, does not monitor its certified sober homes to ensure that drug tests performed for residential monitoring are not billed to MassHealth. When we met with BSAS regarding this concern, its officials told us they were not aware of the MassHealth regulation that prohibits payment for drug tests for residential monitoring. Once we notified BSAS of this requirement, it immediately alerted MASH, which modified its website to inform sober-home directors that billing MassHealth for residential monitoring drug tests is not allowed.

Recommendations

1. If MassHealth wants to continue to enforce its current regulations and not allow providers to bill for drug tests for residential monitoring, it should work with BSAS officials to ensure that it does not pay for such tests. Sober homes may want to explore the possibility, if practical, of using low-cost drug test kits that can be used on site to provide immediate results rather than having laboratories perform these tests.

2. MassHealth should perform periodic reviews of laboratory drug test order forms and laboratory result reports to monitor whether laboratories are billing for medically necessary drug tests.

Auditee's Response

MassHealth disagrees with the finding that it may have improperly paid $741,621 for members residing in sober homes. The amount represents payments for drug tests identified as unnecessary in Finding 1 that OSA determined were for MassHealth members residing in sober

homes. . . . The issue is compounded by OSA's flawed method for determining sober home residency (i.e., manual comparison of member addresses with addresses of sober homes OSA was "able to identify") and its unjustified assumption that drug testing for individuals residing in sober homes is only performed for residential monitoring purposes (which is not payable under MassHealth regulations), and is not medically necessary testing for members receiving SUD treatment, for instance. . . .

MassHealth does not plan to change its policy regarding drug tests for residential monitoring at this time. MassHealth has met with DPH/BSAS to educate staff regarding payment limitations governing residential monitoring. BSAS staff has used the information provided by MassHealth to outreach to sober home providers certified by the Massachusetts Association of Sober Homes regarding MassHealth payment policies. Additionally, BSAS participates in a workgroup MassHealth has established to evaluate drug testing policies. . . .

As described above, MassHealth has been identifying providers with increased billing activity or aberrant billing practices. For certain providers, MassHealth has been suspending these providers' claims prior to payment and requiring submission of additional documentation, including written requests from authorized prescribers. Further, MassHealth has been reviewing providers who consistently bill high level definitive testing. For these providers, MassHealth plans to suspend the relevant claims and require submission of additional documentation, including written requests from authorized providers, to ensure the claims meet applicable regulations and are medically necessary. The Non-Institutional Provider Review program within the MassHealth Office of Clinical Affairs periodically reviews certain providers to ensure they meet all applicable regulations and requirements. These reviews, which include providers who perform drug testing services, requires providers to submit documentation, including written requests from authorized prescribers, to verify that the provider followed all applicable regulations and requirements for selected claim transactions.

Auditor's Reply

Our audit found that MassHealth may have improperly paid at least $741,621 for drug tests for members living in either certified or non-certified privately owned sober homes or recovery homes. This amount was included in Finding 1, but OSA also determined specifically that these members lived in sober homes and appeared to have received frequent drug testing without any other related medical services for extended periods; therefore, the testing appeared to be for the purpose of residential monitoring.

The process OSA used to determine that these members lived in sober homes was based on sound analysis using publicly available records and information from DPH, the Corporations Division of the Office of the Secretary of the Commonwealth, and the Medicaid Management Information System. OSA developed a credible master list of sober-home addresses from DPH's MASH website, DPH's list of BSAS-licensed recovery homes, the Corporations Division's business entity database, and general Internet

searches on sober homes in Massachusetts. OSA recognizes that this list may not include all possible sober homes in Massachusetts, since there is no publicly available official list of privately owned sober homes. However, our list includes all the sober homes we were able to positively identify. Based on our process, we believe we came up with accurate addresses of sober homes to use in our testing.

OSA only questioned drug tests of members living in these sober homes if the members were not receiving any other medical services for which a healthcare professional could have used the tests within a reasonable timeframe. Specifically, using data analytics, OSA identified hundreds of instances where many MassHealth members sharing the same sober-home address received frequent and routine (e.g., Monday, Wednesday, and Friday) drug testing on the same dates, with no other medical service provided within the 7 days before or after the drug test. For example, in one case, five MassHealth members lived in the same sober home and were routinely drug tested every Monday, Wednesday, and Friday. This routine drug testing schedule matched the sober home's published drug test policy, but none of these five members received any other medical service in the seven days before or after each test. Based on these facts, it appeared to us that these tests were performed for residential monitoring.

MassHealth believes that our recommendation regarding temporarily waiving the coverage limitation on drug testing for residential monitoring is not within the scope of our audit. On the contrary, OSA made this recommendation in consideration of the current opioid crisis; if a doctor believed that it would benefit a member s/he was treating to be allowed to stay in this type of environment, then MassHealth might want to discuss this matter with DPH and consider, if necessary, waiving this regulatory requirement to accommodate the medical professional's determination. However, if MassHealth does not consider our recommendation feasible, then it should create its own methods to ensure that it does not pay for drug tests for residential monitoring through more effective monitoring activities.

During our audit, MassHealth did not communicate to OSA the non-institutional provider reviews that its Office of Clinical Affairs performed. Therefore, we cannot comment on whether these reviews occurred for claims we examined for this audit.

3. MassHealth paid $21,073 for drug tests that were not supported by proper documentation.

MassHealth paid $21,073 for 2,722 drug tests that were not supported by proper documentation. Specifically, none of the drug test order forms for the 15 sampled members tested at one laboratory

were prepared by an authorized prescriber; rather, the forms were prepared by the independent clinical laboratory. Additionally, some of the drug test results for these 15 sampled members were missing. Without this information, MassHealth cannot ensure that these tests are medically necessary and meet its requirements for covered services.

Authoritative Guidance

According to 130 CMR 401.416(A),

> *The independent clinical laboratory may not bill for a service unless it has received a written request to perform that specific service from an authorized prescriber who is treating the member and will use the test for the purpose of diagnosis, treatment, or an otherwise medically necessary reason. . . . Any independent clinical laboratory billing for a service must maintain such request in its records. . . . If the laboratory that billed for the service cannot produce the original request, the MassHealth agency may deny or recover payment for all services the laboratory provided based on that request.*

Additionally, 130 CMR 401.416(C) states,

> *Requests for laboratory services must be written and include the following information . . .*
>
> *(3) the name and address of the authorized prescriber (if the authorized prescriber is a Massachusetts Department of Public Health licensed substance abuse treatment program for the sole purpose allowed pursuant to 130 CMR 401.402, the request must include the names and addresses of both the substance abuse treatment program and the physician initiating the request).*

Finally, 130 CMR 401.417 states that MassHealth does not pay for drug tests for laboratories that do not maintain required documents to support these claims:

> *The laboratory record must contain the following information . . .*
>
> *(J) the results of each test, the name and address of all persons to whom each test result is reported, and the date of reporting.*

Reasons for Noncompliance

Despite repeated requests, officials at the laboratory in question did not explain the lack of required documentation.

Recommendations

1. MassHealth should work with drug test laboratories to ensure that they obtain and retain proper documentation of drug test orders and results for each drug test provided to a MassHealth member.

2. MassHealth should collaborate with the laboratory in question to establish a plan for repayment of the $21,073 in overpayments for improper laboratory drug test billings.

Auditee's Response

MassHealth has been identifying providers with aberrant billing patterns and has been suspending relevant claims. MassHealth requires identified providers to submit additional documentation, including copies of written requests from authorized prescribers and supporting medical documentation, prior to payment. The Non-Institutional Provider Review program within the MassHealth Office of Clinical Affairs periodically reviews certain providers to ensure they meet all applicable regulations and requirements. These reviews, which include providers who perform drug testing services, requires providers to submit documentation, including written requests from authorized prescribers, to verify that the provider followed all applicable regulations and requirements for selected claim transactions. . . .

MassHealth requested and received the claim examples identified by OSA as not having required documentation and will recover any payments for claims lacking the necessary documentation.