



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

Making government work better

Official Audit Report-Issued February 25, 2016

Office of Medicaid (MassHealth)—Review of Evaluation and Management Claims Submitted by Asaker Medical Associates

For the period January 1, 2013 through December 31, 2014





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

Making government work better

February 25, 2016

Dr. Bahige Asaker
Asaker Medical Associates
1020 Pleasant Street
Brockton, MA 02301

Dear Dr. Asaker:

I am pleased to provide this performance audit of evaluation and management claims submitted to the Office of Medicaid (MassHealth) by Asaker Medical Associates. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2013 through December 31, 2014. 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 Asaker Medical Associates for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written in a cursive style.

Suzanne M. Bump
Auditor of the Commonwealth

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
OVERVIEW OF AUDITED ENTITY	3
AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY	6
DETAILED AUDIT FINDINGS WITH AUDITEE’S RESPONSE.....	9
1. Asaker Medical Associates received an estimated \$24,357 in overpayments for services performed by an independent nurse practitioner.	9
2. Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by a non-independent NP.....	11

LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
E/M	evaluation and management
MMIS	Medicaid Management Information System
NP	nurse practitioner
OSA	Office of the State Auditor

EXECUTIVE SUMMARY

Under Chapter 118E of the Massachusetts General Laws, the Executive Office of Health and Human Services, through the Division of Medical Assistance, administers the state's Medicaid program, known as MassHealth. MassHealth provides access to healthcare services to approximately 1.9 million eligible low- and moderate-income children, families, seniors, and people with disabilities annually. In fiscal year 2015, MassHealth paid healthcare providers more than \$13.6 billion, of which approximately 50%¹ was funded by the Commonwealth. Medicaid expenditures represent approximately 38% of the Commonwealth's total annual budget.

The Office of the State Auditor has conducted an audit of evaluation and management (E/M) claims submitted to MassHealth by Asaker Medical Associates for the period January 1, 2013 through December 31, 2014. The purpose of our audit was to determine whether Asaker Medical Associates submitted claims for services provided to MassHealth members in compliance with certain state regulations and MassHealth policies and procedures. This audit was conducted as part of our ongoing independent statutory oversight of the state's Medicaid program. Several of our previously issued audit reports have disclosed significant weaknesses in MassHealth's claim-processing system that resulted in hundreds of millions of dollars in unallowable and potentially fraudulent claim payments. As with any government program, public confidence is essential to the success and continued support of the state's Medicaid program.

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

Finding 1 Page 9	Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by an independent nurse practitioner (NP), resulting in an estimated \$24,357 in overpayments.
Recommendations Page 11	<ol style="list-style-type: none">1. Asaker Medical Associates should take the measures necessary to ensure that it submits claims that correctly identify the provider of E/M services.2. Asaker Medical Associates should repay MassHealth for overpayments for all services performed by an independent NP but billed at the physician rate.

1. During the federal government's fiscal year 2015, the Federal Medical Assistance Percentage for Massachusetts was 50%.

Finding 2 Page <u>11</u>	Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by a non-independent NP.*
Recommendations Page <u>12</u>	<ol style="list-style-type: none">1. Asaker Medical Associates should use the required modifier codes when billing for services provided by a non-independent NP in collaboration with Dr. Asaker.2. Within members' medical files, Asaker Medical Associates should properly document services performed by a non-independent NP in collaboration with Dr. Asaker.3. Asaker Medical Associates should repay MassHealth for overpayments for all services performed by a non-independent NP in collaboration with Dr. Asaker.

* Although this issue needs to be addressed, its financial effects were not significant during our audit period and therefore are not quantified in this report. The non-independent NP did not evaluate members until the end of our audit period. Additionally, the related claims involved outpatient treatments, some of which were 80% paid by the federal Medicare program.

OVERVIEW OF AUDITED ENTITY

Under Chapter 118E of the Massachusetts General Laws, the Executive Office of Health and Human Services is responsible for administering the state's Medicaid program, known as MassHealth. For the period January 1, 2013 through December 31, 2014, Asaker Medical Associates submitted 15,413 claims, totaling \$501,816, for inpatient and outpatient evaluation and management (E/M) services provided to MassHealth members. Of this amount, \$193,496 represents outpatient E/M services, which were the focus of our audit work.

Dr. Asaker has been the sole proprietor of Asaker Medical Associates in Brockton for more than 25 years and specializes in internal medicine. Dr. Asaker provides patient care at an outpatient professional medical building, two acute outpatient hospitals, six nursing facilities, and a chronic-disease and rehabilitation hospital. Additionally, Dr. Asaker serves as an attending physician for out-of-state residents who temporarily reside at Cedar Hill Health Care Center.

The table below details the medical facilities where Dr. Asaker performs E/M services for MassHealth members, including the positions he holds at these facilities.

Positions Held by Dr. Asaker during the Audit Period

Medical Facility	Position/s
Asaker Medical Associates (outpatient professional medical building)	Sole proprietor Physician provider of outpatient services
Kindred Hospital Northeast (chronic-disease and rehabilitation inpatient hospital)	Medical director Attending physician for daily patient care*
Signature Healthcare Brockton Hospital (acute outpatient hospital)	Attending physician
Good Samaritan Medical Center (acute outpatient hospital)	Attending physician
Sachem Center for Health & Rehabilitation, formerly Kindred Transitional Care and Rehabilitation (nursing facility)	Medical director Attending physician
Cedar Hill Health Care Center (nursing facility)	Medical director Attending physician Attending physician for non-state residents
The Guardian Center (nursing facility)	Medical director Attending physician
Champion Rehabilitation and Health Center (nursing facility)	Attending physician

Medical Facility	Position/s
West Acres Rehabilitation & Nursing Center (nursing facility)	Attending physician
Webster Park Rehabilitation & Healthcare Center (nursing facility)	Attending physician

* According to Section 435.409(B)(1)(b) of Title 130 of the Code of Massachusetts Regulations, patients at chronic-disease and rehabilitation inpatient hospitals must be evaluated at least once a day by their attending physician.

Asaker Medical Associates employs three nurse practitioners (NPs) who also perform medical services for MassHealth members at these facilities. Specifically, two of the NPs perform E/M services for Dr. Asaker's patients at Asaker Medical Associates' outpatient office and the six nursing facilities, and the third NP performs E/M services for Dr. Asaker's chronic-care patients at Kindred Hospital.²

Asaker Medical Associates—Outpatient E/M Services

During the two-year audit period, MassHealth paid Asaker Medical Associates a total of \$193,496 for outpatient E/M services. Of this amount, \$187,264 was for services billed under Dr. Asaker's MassHealth provider identification number. The remaining \$6,232 was for services billed under the independent NP's MassHealth provider identification number. The following table details these claims and payments.

Asaker Medical Associates—Outpatient E/M Services Paid

Service Provider	Number of E/M Claims Paid	Amount Paid
Dr. Asaker	3,579	\$ 187,264
Independent NP	143	6,232
Total	<u>3,722</u>	<u>\$ 193,496</u>

Billing Requirements for Services Provided by NPs

NPs are nationally certified and state-licensed medical professionals who can practice medicine as part of a healthcare team, in collaboration with physicians, or independently. NPs' services include taking patient medical histories, conducting physical exams, diagnosing and treating illnesses, developing treatment plans, writing prescriptions, and conducting rounds in hospitals and nursing homes.

Independent NPs are certified by MassHealth to provide these services and are required to bill MassHealth using their unique MassHealth provider identification numbers. Non-independent NPs are

2. This NP also has a contract with Kindred to perform emergency medical services for Kindred's chronic-care patients.

typically hired to work with physicians to provide medical services. These services must be billed under the collaborating physician's unique MassHealth provider identification number with a modifier code. A modifier code is used when a medical procedure or service has been altered in some way. For example, if a non-independent NP performed a medical examination in collaboration with a physician, the modifier code "SA" should be used. The SA modifier code results in a 15% reduction in the rate of payment for E/M services. Thus, services rendered by a non-independent NP in collaboration with a physician are paid at 85% of the physician's rate.

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 evaluation and management (E/M) services performed by Asaker Medical Associates for the period January 1, 2013 through December 31, 2014.

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 a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

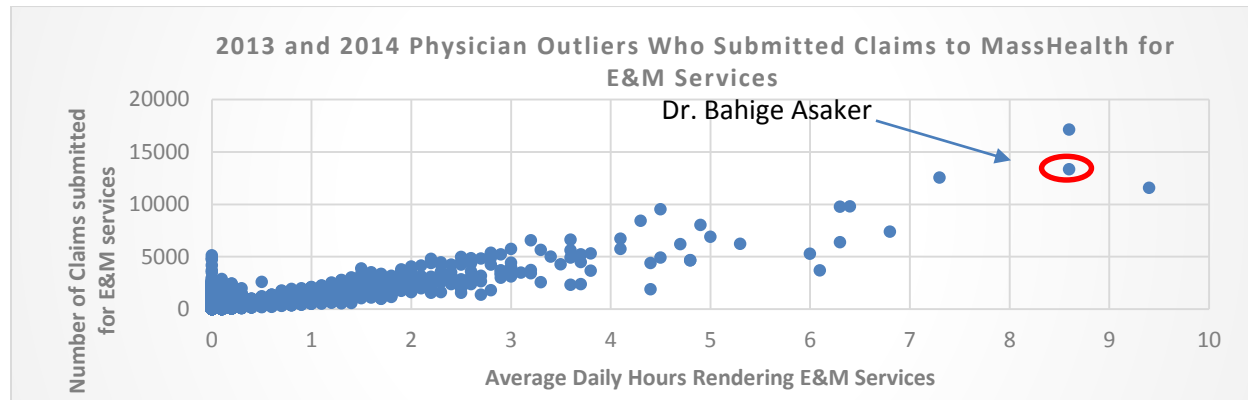
Objective	Conclusion
1. Did Asaker Medical Associates properly bill MassHealth for outpatient E/M services provided by nurse practitioners (NPs)?	No; see Findings <u>1</u> and <u>2</u>
2. Did Dr. Asaker properly bill MassHealth for E/M services at Kindred Hospital Northeast while serving as Kindred's medical director?	Yes
3. Did Dr. Asaker properly bill MassHealth for E/M services at three nursing facilities while serving as medical director?*	Yes

* Our audit work at Kindred and the nursing facilities focused solely on whether a conflict of interest existed between Dr. Asaker's dual roles as medical director and attending physician.

Auditee Selection

During calendar years 2013 and 2014, MassHealth paid its service providers approximately \$975 million for E/M services. Because of the amount of these expenditures and because certain audits conducted by both federal and other state agencies have identified instances of fraud in claims submitted for E/M services, OSA is conducting a series of audits focusing on providers of E/M services. We selected Asaker Medical Associates for an audit because, using data analytics, we determined that the time that Dr.

Asaker spent³ performing E/M services greatly exceeded the amount spent by most of his peers, as illustrated below.



We also considered Asaker Medical Associates a high-risk Medicaid provider because an audit initiated by the Office of Medicaid within the state's Executive Office of Health and Human Services, which was completed in May 2012, identified problems with this vendor's billings.

Methodology

To achieve our audit objectives, we reviewed applicable state and federal laws, rules, and regulations; MassHealth Provider Bulletins and Transmittal Letters; and the American Medical Association's 2012 Healthcare Common Procedure Coding System descriptions. We also reviewed some previous audits of Asaker Medical Associates that were conducted by MassHealth's Provider Compliance Unit and others that were conducted through its recovery asset contractor, MassPro.

We interviewed officials at MassHealth, Kindred Hospital Northeast, and New England Sinai Hospital, as well as Dr. Asaker, his NPs, and administrative and billing personnel.

We queried Asaker Medical Associates' claims from the Commonwealth's Medicaid Management Information System (MMIS) and MassHealth Data Warehouse for the audit period. We assessed the reliability of the MassHealth data in MMIS and the MassHealth Data Warehouse. As part of this assessment, we reviewed existing information, tested selected information system controls, and interviewed knowledgeable agency officials about the data. Additionally, we performed validity and

3. Our analysis included the number of claims billed to MassHealth by each physician and the average daily time estimated to perform these services based on the American Medical Association's recommended time elements for different patient complexity levels and amounts of provider face-to-face time with a patient.

integrity tests on all claim data, including (1) testing for missing data; (2) scanning for duplicate records; (3) testing for values outside a designated range; (4) looking for dates outside time periods; and (5) tracing samples of claims to medical records and to information stored in MMIS. Based on the procedures performed, we determined that the data obtained were sufficiently reliable for the purposes of this report.

We performed data analytics using these claims to identify areas of potential fraud, waste, and abuse. Additionally, we performed substantive audit testing on all claims billed for three targeted dates of service to determine whether services billed under Dr. Asaker's unique MassHealth provider identification number were actually performed by him. We performed this test by reviewing member medical files, encounter forms, progress notes, employee work schedules, and scheduled appointments during the audit period.

Since we found issues with these claims, we selected a statistical sample of 88 of the 3,722 total outpatient E/M claims paid during the audit period to examine, and we projected our results to the entire population of Asaker Medical Associates' outpatient E/M claims. When projecting the error to the population, we assumed that MassHealth paid a 20% co-insurance rate for all Medicare Crossover Part B claims.⁴

We obtained contracts, timesheets, and Internal Revenue Service Form 1099s from Kindred Hospital Northeast, Cedar Hill Health Care Center, the Guardian Center, and Sachem Center for Health & Rehabilitation. We reviewed these documents to gain an understanding of Dr. Asaker's contracted roles and responsibilities as medical director and to determine whether his contracts also required him to perform duties as an attending physician. We reconciled timesheets, which identified activities performed as medical director, to corresponding Form 1099s to confirm that payments he received were solely for duties outlined in the contracts. We also reviewed the Hospital Statement of Costs, Revenue and Statistics reports for Kindred's fiscal years 2013 and 2014 to determine whether Kindred paid Dr. Asaker for daily E/M services, for which he separately billed MassHealth.

4. Section 20.3(B) of Chapter 3 of the Medicare General Information, Eligibility, and Entitlement Manual (Rev. 1, 09-11-02) states that a co-insurance of 20% is applicable once a member's deductible has been paid.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. Asaker Medical Associates received an estimated \$24,357 in overpayments for services performed by an independent nurse practitioner.

Asaker Medical Associates improperly billed MassHealth for outpatient evaluation and management (E/M) services using the wrong provider identification number. Specifically, Asaker Medical Associates submitted claims to MassHealth using Dr. Asaker's provider identification number instead of that of the independent nurse practitioner (NP) who actually performed the services. As a result, MassHealth paid Asaker Medical Associates at the higher rates paid for physicians. Based on our statistical sample of 88 E/M outpatient claims, we estimate that MassHealth made \$24,357 of such overpayments during the audit period.

MassHealth pays less for services performed by NPs than for those performed by physicians. For example, in 2013, procedure code 99213 (15-minute outpatient E/M services) was paid at a physician rate of \$79.92, whereas the NP rate was only \$44.51.

Initially, we examined a non-statistical judgmental sample of 30 outpatient E/M claims, which were for services performed on the three busiest Wednesdays of the audit period. We sampled from the total population of 587 claims billed on Wednesdays during the audit period because Dr. Asaker was only scheduled to see seven MassHealth members on Wednesdays, but 496 of these claims identified him as the service provider, as shown below.

Outpatient Claims Billed to MassHealth on Wednesdays

Service Provider	Members Scheduled	Claims Billed
Dr. Asaker	7	496
Independent NP	580	91
Total	<u>587</u>	<u>587</u>

In the initial sample, 29 of 30 claims (97%) were billed using Dr. Asaker's unique MassHealth provider identification number, but the services were performed by the independent NP. Since this sample identified a high rate of error, but was limited to Wednesdays, we performed similar testing using a

random, statistical sample of 88 of 3,722⁵ outpatient E/M claims paid during the audit period in order to project the results to the entire population.

Of these 88 claims, 30 (34%) were billed to MassHealth with Dr. Asaker listed as the service provider, but the services were actually performed by the independent NP. We projected this error rate to the entire population of outpatient E/M claims using a 95% confidence level and a 10% tolerable error rate. The result was projected overpayments of \$24,357⁶ during the audit period.

Authoritative Guidance

For services performed by independent NPs, Section 450.301(A) of Title 130 of the Code of Massachusetts Regulations (CMR) states,

Except as provided in other program regulations, a claim for a medical service may be submitted only by the provider that provided the service . . . An individual practitioner may not claim payment under his or her own name and provider number for services actually provided by another individual, whether or not the individual who provided the service is also a participating provider, or is an associate, partner, or employee of the individual practitioner.

Additionally, MassHealth has issued regulations to ensure that claims paid for medical services reflect actual services provided. Specifically, 130 CMR 450.223(C)(2)(e) indicates that providers entering into a contract with MassHealth agree

that the submission of any claim by or on behalf of the provider constitutes a certification (whether or not such certification is reproduced on the claim form) that . . . the information submitted in, with, or in support of the claim is true, accurate, and complete.

Finally, 130 CMR 450.307(A) describes unacceptable billing practices as follows:

No provider may claim payment in a way that may result in payment that exceeds the maximum allowable amount payable for such service under the applicable payment method.

Reasons for Improper Claims

Although patient progress notes and encounter forms maintained in member files were properly completed by the independent NP who performed the services, they were typically signed by Dr. Asaker,

5. This number includes the 587 claims paid for services provided on Wednesdays during the audit period.

6. We performed two separate calculations, as the outpatient claims were either 100% paid by MassHealth for Medicaid members or partially (20%) paid by MassHealth for Medicare Crossover Part B members.

which caused his administrative personnel to bill MassHealth using his provider identification number instead of the independent NP's.

Recommendations

1. Asaker Medical Associates should take the measures necessary to ensure that it submits claims that correctly identify the provider of E/M services.
2. Asaker Medical Associates should repay MassHealth for overpayments for all services performed by an independent NP but billed at the physician rate.

2. Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by a non-independent NP.

Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by a non-independent NP. As a result, MassHealth paid these claims at the full physician rate, rather than at 85% of that rate as required by MassHealth regulations.

Asaker Medical Associates employs a non-independent NP to work with Dr. Asaker to perform medical services at his outpatient office and several nursing facilities. Since September 2014, this employee has collaborated with Dr. Asaker on outpatient E/M services for MassHealth members. Our review of the statistical sample of 88 claims showed that in 3 cases, the members were scheduled for visits with this non-independent NP. Additionally, Asaker Medical Associates' administrative staff and the non-independent NP stated that she performs patient exams under Dr. Asaker's supervision. Because she was scheduled to perform such exams daily, including these 3, and we know that she did perform such exams, we believe it is reasonable to conclude that she performed these 3, although the office's notes from the appointments did not provide that detail.

Authoritative Guidance

The regulation 101 CMR 317.04(3) describes the SA modifier as follows:

Nurse practitioner rendering service in collaboration with a physician (This modifier is to be applied to codes for services billed by a physician that were performed by a non-independent nurse practitioner employed by the physician or group practice.) (An independent nurse practitioner billing under his/her own individual provider number should not use this modifier.)

The modifier ensures that MassHealth will pay the appropriate, lower rate for the NP's services, which is established in MassHealth All Provider Bulletin 230 as 85% of the full physician rate.

In addition, as previously mentioned, 130 CMR 450.301(A) prohibits doctors from billing under their own names for services provided by someone else, including their associates or employees.

We asked MassHealth via email, "When should a physician use an SA Modifier? Should this modifier always be used when patient services are not 'hands on' by the physician?" MassHealth responded that "a physician should use the SA Modifier to designate medical services rendered by non-independent nurse practitioners the physician employs."

Reasons for Improper Billings

Dr. Asaker and his staff stated that during a previous audit, MassHealth instructed them to submit claims using the SA modifier only when billing for E/M services provided by the independent NP. However, this is contrary to MassHealth's billing guidelines, which require the SA modifier to be used only in billing for physician services in collaboration with non-independent NPs. Further, our review of the MassHealth audit in question did not indicate that MassHealth recommended this billing process, nor has Asaker Medical Associates provided us with any documentation to support this assertion.

Recommendations

1. Asaker Medical Associates should use the required modifier codes when billing for services provided by a non-independent NP in collaboration with Dr. Asaker.
2. Within members' medical files, Asaker Medical Associates should properly document services performed by a non-independent NP in collaboration with Dr. Asaker.
3. Asaker Medical Associates should repay MassHealth for overpayments for all services performed by a non-independent NP in collaboration with Dr. Asaker.

Asaker Medical Associates' Response

I have reached out to multiple practices across the Commonwealth of Massachusetts, including hospital practices, primary practices, and specialty practices that use nurse practitioners and physician assistants. The conclusion was that services provided by the NP/PA under the supervision of the physician are billed under the physician provider numbers and no modifier used. Nurse practitioners as auxiliary staff members can bill a service under a physician's [identification number] when a physician is in the office suite and available to help if needed. A physician merely being available by phone does not constitute direct supervision. Based on these guidelines I felt that I was in compliance by doing the following:

A. For independent nurse practitioner

- 1. If a service is provided by the NP under my supervision and retaining my professional liability for the service, then it is billed under the physician provider number.*
- 2. If a service is provided by the NP independently without physician supervision the service is then billed under the NP.*

Wednesday Services were an issue with the auditor. As of February 2015 I stopped supervising my nurse practitioner in the office on Wednesdays. Since that time services for that day have been billed with the NP's provider number. Prior to February 2015 services provided by the NP were billed under the physician's provider number because I was in the office supervising the care.

B. Non-independent nurse practitioner

- 1. Services were provided and documented by me, the physician. The services were therefore billed under the physician provider number as the non-independent nurse practitioner acted as an assistant. If the service was performed without my supervision then it was billed with the SA modifier. . . .*
- 2. On multiple occasions patients have refused to see the NP and end up seeing me instead, even so they remained on the NP schedule. This is simply a clerical error.*

Due to the complexity of the guideline I billed according to billing consultant guidance provided to the practice. I had no intention of miss billing for the extra 15% collection. Going forward, I will comply with the auditor's billing and coding recommendations.

MassHealth's Response

Prior to the State Auditor's audit, MassHealth audited Bahige Asaker, M.D., and Dr. Asaker and MassHealth entered into a corrective action plan and settlement agreement on August 27, 2012 for \$97,017.05. The settlement amount was based on Dr. Asaker's high frequency of office visits; lack of medication management and care coordination; and a large number of diagnoses for the period 11/1/2006 to 10/31/2007. Further, Dr. Asaker's claims to MassHealth did not use the SA modifier to indicate that a non-independent nurse practitioner had performed services billed to MassHealth.

[The Office of the State Auditor] was correct in their findings that:

- Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by an independent nurse practitioner, resulting in an estimated \$24,357 in overpayments.*
- Asaker Medical Associates improperly billed MassHealth for outpatient E/M services performed by a non-independent nurse practitioner by not using the appropriate modifier on its claims.*

According to state regulations:

A physician should use the SA modifier to designate medical services rendered by non-independent nurse practitioners the physician or the physician's group practice employs. See 101 CMR 317.04 and 114.3 CMR 18.04(1).

An independent nurse practitioner should not use an SA modifier to bill for his or her own services. See 101 CMR 317.04 and 114.3 CMR 18.04(1).

Non-independent nurse practitioners are not eligible to enroll as MassHealth providers, and cannot bill for their own services. See 130 CMR 433.433(D). . . .

MassHealth will re-initiate a review of Dr. Asaker based on the State Auditor's report and MassHealth's previous audit findings.

Auditor's Reply

Dr. Asaker responded that other physicians with medical practices in the Commonwealth bill for E/M services in a similar manner to Asaker Medical Associates. We could not verify this statement, but whether or not it is true, it does not validate Dr. Asaker's billing practices. Dr. Asaker should have consulted with the state's regulatory authority, MassHealth, with questions concerning the validity of his billing practices.

In his response, Dr. Asaker states that since he supervises the NPs' services and retains professional liability for them, billing under his provider identification number is allowed. However, this is not correct. As we reported and MassHealth confirmed in its response above, E/M services provided by an independent NP, under the supervision of a physician, must be billed using the independent NP's provider identification number.

Regarding non-independent NP services, Dr. Asaker responded that he provided and documented the services with the NP as an assistant and that therefore the modifier was not necessary. However, this conflicts with Asaker Medical Associates' appointment schedule, which indicated that patients were scheduled to see the non-independent NP. Additionally, as previously reported, Asaker Medical Associates' administrative staff and the non-independent NP stated that she performs patient exams under Dr. Asaker's supervision.

Dr. Asaker did acknowledge that some services were performed by the non-independent NP herself: "If the service was performed without my supervision then it was billed with an SA modifier." However, out of the 3,580 outpatient claims he billed, only 1 was billed using the SA modifier. Since his staff and non-

independent NP confirmed that she sometimes performed patient exams, it would be reasonable to expect that more than 1 claim would have been submitted using the modifier during the audit period.

In addition, regarding this issue and Dr. Asaker's statement that he intends to follow this office's recommendations, we wish to clarify that we did not recommend that he use the SA modifier for services provided by the non-independent NP without his supervision. Because, as stated in MassHealth's response, the CMR dictates that non-independent NPs "are not eligible to enroll as MassHealth providers, and cannot bill for their own services" and the SA modifier is for "services performed **in collaboration with a physician**" (emphasis added), he should not bill MassHealth at all for services performed by the non-independent NP without his supervision.