



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

*Making government work better*

Official Audit Report – Issued October 25, 2017

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Office of Medicaid (MassHealth)—Review of Hospice  
Care Billing: Good Shepherd Community Care  
For the period July 1, 2011 through June 30, 2016





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October 25, 2017

Mr. Timothy Boon, Chief Executive Officer  
Good Shepherd Community Care  
90 Wells Avenue  
Newton, MA 02459

Dear Mr. Boon:

I am pleased to provide this performance audit of claims that Good Shepherd Community Care submitted to the Office of Medicaid for hospice services. This report details the audit objective, scope, methodology, findings, and recommendation for the audit period, July 1, 2011 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 you and your staff for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump  
Auditor of the Commonwealth

cc: Ellen Webster Leiter, Chair of the Board of Directors

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## EXECUTIVE SUMMARY

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

OSA has conducted an audit of hospice claims paid to Good Shepherd Community Care for the period July 1, 2011 through June 30, 2016. During this period, MassHealth paid Good Shepherd Community Care approximately \$5,992,563 to provide hospice services for 376 MassHealth members. The purpose of this audit was to determine whether Good Shepherd Community Care billed MassHealth for appropriate hospice services and whether it documented them in member files in accordance with applicable state and federal regulations.

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

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

<b>Finding 1a</b> <b>Page <a href="#">6</a></b>	One member's Certification of Terminal Illness (CTI) Form was not properly completed.
<b>Finding 1b</b> <b>Page <a href="#">6</a></b>	Some members' MassHealth Hospice Election Forms were missing required information.
<b>Recommendation</b> <b>Page <a href="#">7</a></b>	Good Shepherd Community Care should ensure that all CTI Forms and Hospice Election Forms are complete, accurate, and compliant with MassHealth regulations.

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## OVERVIEW OF AUDITED ENTITY

Under Chapter 118E of the Massachusetts General Laws, the Executive Office of Health and Human Services, through the Division of Medical Assistance, administers the state's Medicaid program, known as MassHealth. MassHealth provides access to healthcare services to approximately 1.9 million eligible low- and moderate-income children, families, seniors, and people with disabilities. In fiscal year 2016, MassHealth paid healthcare providers more than \$14 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 437 of Title 130 of the Code of Massachusetts Regulations (CMR), MassHealth covers medically necessary hospice services provided to eligible members. For the five-year period July 1, 2011 through June 30, 2016, MassHealth paid approximately \$499 million to hospice providers for hospice services for 26,151 members. Good Shepherd Community Care is a certified MassHealth hospice provider located in Newton. (Until 2013, its name was Hospice of the Good Shepherd.) Our audit focused on hospice services, including routine home care, continuous home care, inpatient respite care, general inpatient care, and long-term room and board provided to MassHealth members by Good Shepherd Community Care.

These claims totaled \$5,992,563 during the audit period, as detailed below.

### Good Shepherd Community Care Hospice Services

Fiscal Year	Amount Paid	Number of Claims	Members Served
2012	\$ 674,560	3,496	65
2013	1,077,574	5,074	88
2014	1,470,889	6,801	104
2015	1,335,107	6,137	110
2016	1,434,433	6,293	96
<b>Total</b>	<u>\$5,992,563</u>	<u>27,801</u>	

### Hospice Services

Hospice care provides medical services, emotional support, and spiritual resources to terminally ill MassHealth members. Hospice services include, among other things, nursing, physicians' services,

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counseling, therapy, medications, and medical equipment that are medically necessary to treat a member's terminal illness.

According to 130 CMR 437.402, a member is considered to have a terminal illness if s/he has "a medical prognosis of a life expectancy of six months or less." For a member to begin hospice services, the hospice provider must complete the MassHealth Hospice Election Form, which the member or the member's representative signs and submits to MassHealth. This form notifies MassHealth that a member is choosing to receive hospice care and therefore waiving his/her rights to other medical services related to the terminal illness. The Hospice Election Form is also used if the member wishes to change or end hospice services.

The hospice provider also needs a qualified physician to complete a Certification of Terminal Illness Form certifying that the member is terminally ill and has a life expectancy of six months or less. This form must be signed by the member's attending physician, if s/he has one, and the medical director of the hospice or one of the physicians on the hospice team. The form includes a physician's narrative describing the member's terminal illness and a statement attesting that by signing the form, the physician/s confirm that they composed the narrative based on their review of the member file or physical examination of the member. The medical director or a physician on the hospice team recertifies that the member is terminally ill for each election period. The election periods consist of an initial 90-day period, a subsequent 90-day period, and an unlimited number of 60-day extension periods.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of Good Shepherd Community Care for the period July 1, 2011 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 Good Shepherd Community Care maintain proper documentation in all member files to properly support hospice services it billed for?	No; see <b>Finding 1</b>

To achieve our audit objective, we reviewed applicable state laws and regulations, MassHealth bulletins and transmittal letters, the MassHealth All Provider Manual, and the MassHealth Hospice Manual. We also reviewed MassHealth member files from Good Shepherd Community Care.

We gained an understanding of the internal control environment at Good Shepherd Community Care and evaluated the design of controls over the billing process that we deemed significant to our audit objective.

We performed the following data analysis on all claims paid to Good Shepherd Community Care:

- We summarized claims by relevant data fields, including member identification number, service provided, number of paid claims, and amount paid.
- We tested for payment of hospice claims after member date of death.
- We reviewed the duration of hospice services provided to members.

We selected a nonstatistical random sample of 30 members out of a population of 376,<sup>1</sup> and a judgmental sample of 4 members, based on an isolated risk factor: whether they had been in hospice care for more than two years. We took this combined sample of 34 members to determine whether hospice services billed by Good Shepherd Community Care were documented appropriately. To determine this, we reviewed member files, which included MassHealth Hospice Election Forms, Certification of Terminal Illness Forms, and discharge paperwork. Since this sample was nonstatistical, we could not project the results of the test to the entire population.

We relied on the work performed by OSA in a separate project that tested certain information system controls in MassHealth's Medicaid Management Information System, 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 claim data, including (1) testing for missing data, (2) scanning for duplicate records, (3) testing for values outside a designated range, (4) looking for dates outside specific time periods, and (5) tracing a sample of claims queried to source documents. Based on these procedures, we determined that the data obtained were sufficiently reliable for the purposes of this report.

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1. This is the unduplicated count of members who received hospice services from Good Shepherd Community Care during the audit period.

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## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### **1. Good Shepherd Community Care did not always maintain properly completed required documentation for hospice services.**

For 17 of the 34 sampled member files, which account for \$866,234 of hospice claims reimbursed to Good Shepherd Community Care by MassHealth, Good Shepherd Community Care did not always maintain properly completed required forms supporting hospice services provided to MassHealth members, based on our detailed review of each member's Certification of Terminal Illness (CTI) Form and MassHealth Hospice Election Form. Without ensuring that it obtains and maintains all of the required information, Good Shepherd Community Care risks providing and billing MassHealth for hospice services that may be unnecessary.

#### **a. One member's CTI Form was not properly completed.**

Good Shepherd Community Care did not have a properly completed CTI Form for 1 out of 34 member files tested. In this file, the CTI Form did not include the required physician's narrative.

#### **Authoritative Guidance**

According to Section 437.411(C) of Title 130 of the Code of Massachusetts Regulations (CMR), a CTI Form must include a brief narrative explaining that a patient is terminally ill, a statement attesting that a qualified physician composed the narrative, and the physician's signature:

*The certification must state that the member's life expectancy is six months or less and must be signed by the [attending physician and/or either the medical director or the physician member of the hospice team]. This certification is valid for the first 90 days of hospice coverage. The certification must include a brief narrative explaining the clinical findings that support a life expectancy of six months or less . . . and must include a statement attesting that by signing, the physician confirms that the narrative was composed personally by the physician based on his or her review of the member's medical record or, if applicable, his or her examination of the member.*

#### **b. Some members' Hospice Election Forms were missing required information.**

Good Shepherd Community Care did not have properly completed Hospice Election Forms for 17 of the 34 members in our sample. In 16 files, certain required information, including member address

and effective date, was missing. In the 17th file, the Hospice Election Form was not signed by the member until after the effective date.

### **Authoritative Guidance**

The regulation 130 CMR 437.412(C) describes when the Hospice Election Form should be used:

*Each time a MassHealth member who meets the [eligibility] requirements . . . seeks to elect hospice services, revoke hospice services, or change hospices, the hospice must complete the MassHealth agency's hospice form according to the instructions on the form and submit the form to the MassHealth agency.*

The instructions on the election form state that the Hospice Provider and Member Information section must be filled out. The required information in this section includes the member name, identification number, address, and diagnosis.

According to 130 CMR 437.412(D)(2), "The effective date for hospice services may not be earlier than the date the member or the member's representative signed the hospice form."

### **Reasons for Documentation Issues**

At the time of our audit, Good Shepherd Community Care's management stated that it was not current practice to fill out the member-address portion of the election form, but they have now made this a practice.

Regarding the election form that was not signed until after the effective date, management stated that MassHealth directed them to delay the signing of the form until the member's status was changed from "pending" to "covered."

### **Recommendation**

Good Shepherd Community Care should ensure that all CTI Forms and Hospice Election Forms are complete, accurate, and compliant with MassHealth regulations.

### **MassHealth's Response**

*Regarding the audit findings and recommendation in the audit . . . we agree with the Auditor's recommendation, and recommend that the provider act in accordance with them.*

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## Auditee's Response

Good Shepherd Community Care provided the following response to our audit report, which identified a total of \$873,055 in questionable payments. After reviewing Good Shepherd's response and re-reviewing the hospice records, the Office of the State Auditor (OSA) reduced this amount to \$866,234.

*Good Shepherd finds [the first paragraph of Finding 1] false, misleading and a disservice to the purpose of the audit conducted by the Auditor of the Commonwealth as stated in its opening letter to Good Shepherd as follows, ". . . we will be conducting an audit of **claims paid by MassHealth for hospice services** for the period. . . ." As was noted in this writer's letter dated 10/27/16 to [OSA], of the over \$1,100,000 in claims reviewed in this audit, only \$40,915.36 represented claims for hospice services. That is approximately 4% of the claims reviewed. Over 96% of the claims reviewed in this audit were for Nursing Home Room & Board. It does not seem possible that \$873,055 of **hospice** claims could have been found to be wanting when the audit only reviewed \$40,915.36 in hospice claims.*

*As the State Auditor's Office of the Commonwealth is aware, hospices are required to act as a pass through agent for Nursing Home Room & Board claims when either a dual beneficiary or solely MassHealth member is receiving hospice services in a nursing home. MassHealth only pays 95% of the usual Room & Board charge to the hospice (which then passes that payment on to the nursing home) in order to account for the fact that there is some overlap between the hospice's and the nursing home's financial obligations to the member (supplies and equipment). Hospices are forced to absorb the administrative costs and burdens of processing these payments, but these payments are unrelated to hospice care. The vast majority of the claims examined in this audit (96%) were R&B charges for dual beneficiaries for whom Good Shepherd **was not billing Hospice services to MassHealth.***

*1A . . . CTI [form was] not properly completed.*

- i. One CTI form did not include the required physician's narrative. This finding is correct. There was one CTI form that did not include a narrative. . . . That indicates less than a full 1% error rate in Good Shepherd claims examined by this audit. It does indicate, however, that Good Shepherd billed Medicare for a benefit period in which there was a technical failure to complete the CTI appropriately. Because the CTI is related to medical necessity, we have begun the process of re-paying Medicare for that benefit period.*

*1B—Some members' MassHealth Hospice Election Forms were missing required information*

*What the auditors did find is that many election forms faxed to MassHealth as required did not include the member's address. While Good Shepherd apologizes for this clerical oversight, the address of the member appeared on every claim it sent MassHealth and appeared in multiple portions of Good Shepherd's medical records. While this writer cannot ascertain the genesis of this practice at Good Shepherd, it went on for many years before a representative at MassHealth called us and told us we needed to include the address on the form. That call was made in very late 2015 and from that point on, Good Shepherd made a point of filling in the address before faxing the form to MassHealth.*

## **Auditor's Reply**

Contrary to Good Shepherd Community Care's assertion, our audit report correctly states that we found documentation problems for 17 of the 34 sampled member files, accounting for \$866,234 of hospice claims reimbursed to Good Shepherd Community Care during the audit period. In its response, Good Shepherd Community Care states that nursing facility room and board is not considered a hospice service. However, this is not true. Subchapter 6 of the MassHealth Hospice Manual lists room and board as a hospice service and establishes a specific procedure code (T2046) to bill for these services. As stated in this report, our audit covered the following hospice services: routine home care (T2042), general inpatient care (T2045), and long-term room and board (T2046). Regardless of whether Good Shepherd Community Care passes some of this funding along to nursing facilities, it still billed MassHealth and received payments for these services.

In addition, as noted above, Good Shepherd Community Care did not have properly completed Hospice Election Forms for 17 of the 34 members in our sample. In 16 files, certain required information, including the member address and effective date, was missing. In the 17th file, the Hospice Election Form was not signed by the member until after the effective date. In its response, Good Shepherd Community Care attributes some of these problems to clerical errors and asserts that these were not significant, since MassHealth was still able to process claims for these members and they had no effect on the medical services provided. However, as noted above, the instructions on the Hospice Election Form state that the Hospice Provider and Member Information section must be filled out. The required information in this section includes the member name, identification number, address, and diagnosis. Further, according to 130 CMR 437.412(D)(2), "The effective date for hospice services may not be earlier than the date the member or the member's representative signed the hospice form." When this information, particularly the effective date, is not accurately reported to MassHealth on this form, unauthorized services may be provided to members.