

November 8, 2018

Lorry Bottrill, Chief Executive Officer
Mercy Care
4755 S. 44th Place
Phoenix, Arizona 85040

Subject: Compliance Action - Notice of Sanction

Dear Ms. Bottrill:

The Arizona Health Care Cost Containment System (AHCCCS), Division of Health Care Management (DHCM) has determined that Mercy Care Plan (MCP) and Mercy Maricopa Integrated Care (MMIC), referred to as Mercy Care (MC), is in violation of its Regional Behavioral Health Authority (RBHA) Contract YH17-0001-03 Section “Encounter Data Reporting” 17.3, including provisions 17.3.1; 17.3.6; and 17.3.7, its Acute Contract YH14-0001-08 Section D Paragraph 64 Encounter Data Reporting, and the AHCCCS Encounter Manual as discussed below. The Contract Requirements referenced above provide:

Complete, accurate and timely reporting of encounter data is crucial to the success of the AHCCCS program. AHCCCS uses encounter data to pay reinsurance benefits, set Fee-For-Service and capitation rates, determine reconciliation amounts, determine disproportionate share payments to hospitals, and to determine compliance with performance standards. Furthermore, increased emphasis on encounter data is highlighted in the Medicaid Managed Care Regulations published on May 6, 2016. The Contractor shall submit encounter data to AHCCCS for all services for which the Contractor incurred a financial liability and claims for services eligible for processing by the Contractor where no financial liability was incurred including services provided during prior period coverage [42 CFR 438.604(a)(1); 42 CFR 438.606; 42 CFR 438.818. This requirement is a condition of the CMS grant award [42 CFR 438.242(b)(1)][42 CFR 455.1 (a)(2)].

A Contractor shall prepare, review, verify, certify, and submit, encounters for consideration to AHCCCS. Upon submission, the Contractor must provide attestation that the services listed were actually rendered.

The Contractor shall be subject to sanctions for noncompliance with encounter submission completeness, accuracy and timeliness requirements.

In August 2017, Mercy Care sought encounter technical assistance from AHCCCS regarding edits specific to Vaccines for Children (VFC) related encounters provided in the Federally Qualified Health Centers/Rural Health Centers (FQHC/RHC) setting. With respect to Mercy Care’s August 2017 request, AHCCCS advised Mercy Care that it had the option to submit those VFC encounters with zero paid claim lines in the “Deny/Zero Pay” file because no payment associated with those service codes was made by Mercy Care.

Approximately six months later, in March 2018, AHCCCS identified a significant increase in the dollar value of denied encounters submitted by Mercy Care beginning in August 2017. To understand and verify the large dollar value of the denied encounters, on March 20, 2018, AHCCCS requested that Mercy Care explain the reasons for the considerable increase. As justification for the magnitude of the dollar value of denied encounters, Mercy Care replied that it contacted AHCCCS in August 2017 for assistance in resolving specific edit problems for approximately 3000 encounters with VFC related edits in the FQHC/RHC setting. Mercy Care further noted that AHCCCS advised Mercy Care that it could submit zero paid claim lines in the Deny/Zero Pay file for the VFC related edits. In its March 23, 2018 communication to AHCCCS, Mercy Care explained that “As a result of this guidance we began to send all zero paid claims on the Deny file with the exception of transplants. This is inclusive of status 05 capitated claims that we process for MCP and MMIC which all have a zero paid amount. We suspect that this is the main contributor to the significant increase that you have identified below. If we have misinterpreted the guidance, can we set up a technical assist meeting with our encounter team early next week?” Accordingly, Mercy Care acknowledged that it applied the AHCCCS guidance specific to the VFC-related edits to all zero paid claims with the exception of transplants, not simply those encounters with VFC-related edits where Mercy Care issued no payments for those service codes. As a result, Mercy Care submitted encounters for subcapitated paid claims in the Deny/Zero Pay file. These subcapitated paid claims, which included dates of service from 2014 to 2018, approximated 6.8 million encounters and totaled an estimated \$375 million for the encounters Mercy Care submitted from August 2017 until April 2018, when Mercy Care corrected this erroneous practice. AHCCCS mandated immediate correction of these encounters. Mercy Care began submitting corrected encounters in April 2018 and completed the corrections in July 2018.

The technical guidance provided by AHCCCS to Mercy Care in August 2017 was specific and limited to the VFC related edits in an FQHC/RHC setting. As stated in the AHCCCS Encounter Manual, Chapter 3, Section V, “Contractor Administrative Denials/Zero Payment Encounter Submissions,” zero Medicaid payment encounters are “encounters for which the Contractor did not deny the claim, but paid zero due to factors including but not limited to, there was primary payment and no pass thru or secondary payment was made under Medicaid, etc.” The Deny/Zero Pay file is used to identify service utilization when *no* payment is received by the Contractor. At no time did AHCCCS advise Mercy Care to submit zero paid claim lines in the Deny/Zero Pay file for claims paid under subcapitated arrangements. Unlike the VFC related edits, claims paid under subcapitated arrangements are *paid* by the Contractor. It was incumbent upon Mercy Care to seek clarification from AHCCCS before applying the guidance related to VFC related edits to other claims.

Notably, Mercy Care’s failure to timely identify these consequential encounter submission errors raises serious concerns regarding the efficacy of the Contractor’s oversight of encounter submissions. It appears that Mercy Care lacks effective administrative policies and procedures to ensure that staff are familiar with essential requirements for encounter submission and that substantive changes to encounter submission processes are thoroughly reviewed and approved by Contractor’s key staff, including management, before submission to AHCCCS; otherwise, the adverse implications of Mercy Care’s extensive and erroneous encounter submissions would have been timely identified, and clarification from AHCCCS could have been timely obtained.

While not a specific AHCCCS requirement, administrative policies and procedures which include such elements constitute prudent business practice.

The importance of complete, timely, and accurate submission and reporting of encounter data cannot be overstated. Approved encounters are critical as they are relied upon by AHCCCS actuaries and financial staff for capitation rate setting and financial reconciliations as well as for evaluation of compliance with AHCCCS performance measures. Consistent with federal requirements, capitation rates are actuarially certified and submitted to the Centers for Medicare and Medicaid Services (CMS) for approval. As a result of Mercy Care's submission of materially incorrect encounter data for a time period of approximately nine months, AHCCCS financial analysis and capitation rate setting activities were directly and adversely affected. The actuarial certification, submitted to CMS and developed utilizing the base period data, was adversely impacted by Mercy Care's error and necessitated disclosure by AHCCCS to CMS of the inaccuracies. In addition, completion of AHCCCS reports required by the Arizona Legislature was delayed due to the inaccuracy of encounter data resulting from Mercy Care's improper and erroneous application of technical guidance provided to Mercy Care for an unrelated issue. The hours expended by AHCCCS in resolving Mercy Care's erroneous encounter data submissions and addressing the consequences of the inaccurate data were considerable.

Sanction

Mercy Care failed to submit accurate encounters as mandated by contract and policy. Mercy Care's encounter data errors continued for a period of approximately nine months, impacting 6.8 million claims with an estimated total value of \$375 million. It was only at the direction of AHCCCS that Mercy Care ended the erroneous practice of improperly including claims for which it provided payment in the "Deny/Zero Pay" file. The significant and egregious nature of these errors resulted in substantial adverse impacts to AHCCCS actuarial analysis and AHCCCS development of required certification for capitation rates, including disclosure to CMS. Mercy Care's inaccurate and noncompliant encounter submissions also adversely affected the Agency's work in completing timely and accurate mandated legislative reports.

Although authorized to impose a per-error sanction for accuracy errors of \$5.00 per encounter (refer to AHCCCS Encounter Manual, Chapter 3, Section XVI, "Complete, Accurate and Timely Encounter Data,") AHCCCS has determined to impose a monetary sanction in the amount of \$0.02 per encounter, resulting in a sanction of **\$136,000** as outlined below:

- Mercy Maricopa Integrated Care (MMIC) = \$109,300
- Mercy Care Plan = \$26,700

The total sanction amount of \$136,000 will be withheld from future capitation payments. If Mercy Care disagrees with this decision, it may file a dispute with the AHCCCS Administration using the process outlined in A.A.C. R9-34-401 et. seq. The dispute must be filed in writing and must be received by the AHCCCS Administration, Office of Administrative Legal Services at 701 E. Jefferson Street, Phoenix, Arizona 85034, no later than 60 days from the date of this letter. The dispute shall specify the legal and factual bases for the dispute as well as the relief requested.

Ms. Bottrill
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If Mercy Care has any questions regarding this letter you may contact Shelli Silver at (602) 417-4647 or by email at Shelli.Silver@azahcccs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'M LaPorte', with a long, sweeping horizontal stroke at the end.

Meggan LaPorte (Harley), MSW, CPPO
Chief Procurement Officer

Cc: Carissa Townsend, Mercy Care
Bernadette Moreno, Mercy Care
Shelli Silver, AHCCCS
Cynthia Layne, AHCCCS
Pamela Sullivan, AHCCCS
Virginia Rountree, AHCCCS
Christina Quast, AHCCCS
Ena Binns, AHCCCS
Lori Petre, AHCCCS