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★ ★ ★ **OPERATION RESTORE TRUST** ★ ★ ★

December 11, 1997

Mr. Curtis Lord, VP Program Safeguards
Blue Cross/Blue Shield of Florida
532 Riverside Avenue
PO Box 2078
Jacksonville, FL 32231-0048

Dear Mr. Lord:

The enclosed report provides the results of the Operation Restore Trust (Wedge Project) review of the Arlington House, Community Mental Health Center (Provider #10-4708) located in Palatka, Florida. The objectives of this review were two-fold. First, to evaluate whether the provider met the certification requirements for a CMHC to provide Partial Hospitalization services in accordance with § 1861 ff of the Social Security Act and § 1916 (c)(4) of the Public Health Service Act. Secondly, to evaluate the payments made to the provider to ensure they were appropriate.

A sample of 20 beneficiaries was reviewed for the period January 1996 through December 1996. Our findings will require corrective actions by the Fiscal Intermediary, HCFA, and the OIG.

Please prepare and submit to the HCFA Miami ORT office, an action plan to implement recommendations made in this report that pertain to your organization.

Sincerely,

Rose Crum-Johnson
HCFA Region IV Administrator

Charles Curtis
Region Inspector General-Audit

cc: Angela Bryce-Smith, HCFA CO
Mario Pelaez, OIG-OA
George Jacobs, HCFA Region IV
Dale Kendrick, HCFA Region IV
Eugene Grasser, HCFA Region IV
Barbara Bisno, AUSA

ARLINGTON HOUSE PARTIAL HOSPITALIZATION PROGRAM
Provider No. 10-4708

I. INTRODUCTION

The Secretary of the Department of Health and Human Services and the President initiated Project Operation Restore Trust (ORT), an innovative, collaborative project designed to address growing concerns over rising health care costs. A review of departmental records indicated that over the last 10 years, many segments of the health care industry have experienced a surge in health care fraud and that the States of Texas, California, Illinois, New York and Florida receive annually over 40 percent of all Medicare and Medicaid funds. As a result, these States were selected to participate in the ORT 23-month pilot project.

Within the Department of Health and Human Services, ORT has been a joint effort by HCFA, the OIG, and the Administration on Aging. These components are focusing attention on program vulnerabilities identified through investigations and audits. In 1997, HCFA, its State agencies and contractors, and the OIG carried out various projects (commonly referred to as wedge projects). In the State of Florida, one of these projects involved onsite reviews of community mental health centers (CMHCs). Through analysis of HCFA Customer Information System (HCIS) billing data, and review of complaints, ten CMHCs were selected for onsite review.

These onsite reviews were conducted by an ORT team consisting of representatives from HCFA, the Medicare contractor, the Florida Agency for Health Care Administration), and the Office of Inspector General (OIG)- Office of Audit.

This report provides the results of the combined review of the Arlington House Partial Hospitalization Program (PHP) conducted on May 27, 1997 through May 29, 1997.

II. EXECUTIVE SUMMARY

The objectives of the review were to:

1) determine whether the provider met the certification criteria for a Community Mental Health Center;

2) determine whether the 20 sample Medicare beneficiaries met the eligibility requirements for the Partial Hospitalization Program (PHP) benefit;

3) determine whether the Medicare coverage and reimbursement criteria were met for PHP services claimed by Arlington from 1/1/96 through 12/31/96 on behalf of 20 sample Medicare beneficiaries; and

4) determine whether the costs claimed on Arlington's 1996 cost report were allowable, reasonable, and necessary.

The significant findings of our review are delineated below.

1) The team determined that the facility did meet certification requirements to operate as a CMHC under sections 1916(c)(4) of the Public Health Service Act and section 1861 of the Social Security Act.

2) The team's medical review of the 20 sample beneficiaries found that nine of the twenty were not eligible for PHP benefits.

3) the services provided to the sample 20 Medicare beneficiaries for whom Arlington submitted claims for PHP services for the period of January 1, 1996 through December 31, 1996 represented a net reimbursement in the amount of $1,238,872. The medical review conducted by the Fiscal Intermediary (FI) staff and HCFA concluded that $548,652 of these services did not meet Medicare coverage and reimbursement criteria and, must be recouped. The reviewers found that the content of the group sessions was social, recreational, and diversionary, rather than of a psychotherapeutic nature. In addition, various groups were conducted by unlicensed personnel.

4) The review concluded that Arlington had claimed costs in its 1996 Cost Report totaling $1,277,591 that are unreasonable and unnecessary, therefore unallowable. Related party issues were also identified and costs were disallowed based on evidence that the provider is the former owner and current mortgage holder of the property the provider is leasing. As the financier and lessee of the property, he is related to the lessor. These transactions were not properly disclosed and were not conducted at cost as the guidelines required.

5) The review discovered that payments ($50 per month) were made by Arlington House ALF to residents who participated in the PHP program at Arlington House CMHC. Such payments are potential violations of Medicare bribe and kickback provisions.

On August 28, 1997, the Miami Satellite Office directed the fiscal intermediary to suspend with notice all Medicare payments to Arlington. This action was taken under the provision of 42 CFR 405.372(a)(4), as a result of the determinations by the team: that residents of Arlington House (Assisted Living Facility) received monies in return for participating in Arlington's PHP; that nine of the sampled beneficiaries did not meet the eligibility criteria for the PHP benefit; that some of the PHP services were non-therapeutic in nature; and that there was more than $1.2 million in disallowed costs. The conditions found at the Arlington House have been referred to the OIG-Office of Investigations for assessment as to whether or not the actions constitute fraud and abuse.

III. BACKGROUND

Title XVIII of the Social Security Act (the Act) authorizes the Medicare program to provide medical benefits to individuals who are age 65 or over, and certain individuals under age 65 who are disabled or suffering from end-stage renal disease. Section 1835 of the Act established coverage of partial hospitalization services for Medicare beneficiaries. Section 1861(ff)(2) of the Act generally defines partial hospitalization services as those [mental health] services that are reasonable and necessary for the diagnosis or active treatment of the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary will by regulation establish. This benefit was designed to be a last step treatment for patients who had been diagnosed with mental illness and their condition was in an acute state. These services were supposed to be of limited duration and would be the last steps before inpatient hospitalization. Thus, it was perceived by Congress that this benefit would result in cost savings for treating the mentally ill and because it is limited to those beneficiaries whose mental illness is in an acute state, the expenditures for these services would be minimal.

Section 4162 of Public Law 101-508 (OBRA 1990) amended Section 1861 of the Act to include CMHCs as entities that are authorized to provide partial hospitalization services under Medicare. Section 1916(C)(4) of the PHS Act lists the services that must be provided by a CMHC. A Medicare-certified CMHC can either provide PHP services directly or under arrangement with other providers, in order to render CMHC services as required by the Public Health Service Act.

HCFA's definition of a CMHC is based on §1916(c)(4) of the Public Health Service (PHS) Act. The PHS definition of a CMHC is cross-referenced in section 1861(ff) of the Social Security Act. HCFA defines a CMHC as an entity that provides:

- outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of its mental health services area who have been discharged from inpatient treatment at a mental health facility;
- 24-hour a day emergency care services;
- day treatment or other partial hospitalization services or psychosocial rehabilitation services;
- screening for patients being considered for admission to State mental health facilities to determine the appropriateness for such admission; and
- consultation and education services.

In order for a Medicare patient to be eligible for a partial hospitalization program, a physician must certify (and recertify where such services are furnished over a period of time):

1) that the individual would require inpatient psychiatric care in the absence of such services [This certification may be made where the physician believes that the course of the patient's current episode of illness would result in psychiatric hospitalization if the partial hospitalization services are not substituted];

2) an individualized plan for furnishing such services has been established by a physician and is reviewed periodically by a physician; and

3) such services are or were furnished while the individual is or was under the care of a physician. [Physician certification is required under the procedures for payment of claims to providers of partial hospitalization services under §1835 (a)(2)(F) of the Act.]

A Medicare partial hospitalization program is an appropriate level of active treatment intervention for individuals who:

❑ are likely to benefit from a coordinated program of services and require more than isolated sessions of outpatient treatment. Partial hospitalization is the level of intervention that falls between inpatient hospitalization and episodic treatment on the continuum of care for the mentally ill;

❑ do not require 24-hour care and have an adequate support system outside the hospital setting while not actively engaged in the program;

❑ have a diagnosis that falls within the range of ICD-9 codes for mental illness (i.e., 290 through 319). However, the diagnosis in itself is not the sole determining factor for coverage; and

❑ are not judged to be dangerous to self or others.

Section 1833(a)(2)(B) of the Act provides that CMHCs will be paid for PHP services on the basis of reasonable costs. During the year, a CMHC receives interim payments based on a percentage of its billed charges. These payments are intended to approximate the CMHC's reasonable costs. Upon receipt of the annual Medicare cost report, the FI makes a settlement payment based on the reasonable costs incurred.

The Arlington House CMHC is a not-for-profit corporation with its principal place of business in Palatka, Florida. Its effective day of participation in the Medicare program was September 19, 1994. The provider number was issued based on a self attestation statement certifying the facility's compliance with the Federal requirements in Sec. 1861 (ff)(3)(B) of the Social Security Act, and its conformance with the provisions concerning Medicare provider agreements. The provider chose Blue Cross/Blue Shield of Florida as their fiscal intermediary.

IV. SCOPE AND METHODOLOGY

In order to determine if the provider met the certification requirements for a CMHC, Arlington staff were interviewed and requested to provide documentation demonstrating their provision of the five required core services. Interviews with the owner of the facility, administrative staff, clinical staff, and the sample of beneficiaries were conducted. The financial records as well as leases and consulting contracts were reviewed for an assessment of the expenses claimed on the 1996 cost report.

During the review, applicable laws, regulations, and Medicare guidelines were used to determine whether the sampled beneficiaries and the services claimed met the Medicare eligibility and reimbursement guidelines. The medical review was performed using the criteria set forth in Title 42 CFR 424.24 which provides that Medicare pays for PHP services only if a physician certifies the content of the plan of care. The plan must include the physician's diagnosis, the type, frequency, and duration of services to be administered, and the goals of the treatment plan. In addition, the patient must meet eligibility criteria to receive PHP services.

The medical review was conducted by staff from HCFA and the fiscal intermediary. The review process consisted of a review of all claims submitted by Arlington for the 20 sample beneficiaries between January 1st and December 31st, 1996. The sample used for this review was not based upon a statistically valid random sample, and therefore, the results would not be extrapolated to the entire universe of the provider's claims.

The financial data, reports, and supporting documentation for fiscal year 1996 were requested to determine if costs claimed on the FY 1996 cost report were allowable, reasonable, and necessary. The cost report review was performed in accordance with generally accepted governmental auditing standards.

The field work was conducted at the Arlington House CMHC and the Arlington House ALF in Palatka, Florida. The on-site review started May 27th, 1997 and concluded on June 13th, 1997.

V. FINDINGS

1. Certification

Based on reviews of contracts and agreements with outside agencies and evidence of referrals made, the team concluded that Arlington House met the five core services required by a CMHC program under section 1916(c)(4) of the Public Health Service Act as cross referenced in 1861ff(3) of the Social Security Act. In addition, it was determined that the five core services were provided 'under arrangement'.

2. Patient Eligibility and Physician Certification

The review determined that 6 of the 20 sampled beneficiaries did not have physician certifications for PHP services for various periods of time during 1996. In addition, the team determined that at various periods of time, 9 of the 20 sampled beneficiaries did not require the intensive services of a partial hospitalization program, and therefore did not meet the eligibility criteria for PHP benefits. (See attached chart delineating the medical review results for the 20 beneficiaries in the sample).

3. Medical Necessity

The medical review found that PHP services to the 20 sampled beneficiaries were not reasonable and necessary at various periods of time during 1996. Four to five group sessions billed 3 times a week for each of the 20 sampled beneficiaries were determined to be non-therapeutic in nature. In addition, psychotherapy groups were not always conducted by personnel qualified or licensed to provide psychotherapy in accordance with state law. As a result of the medical review, $548,652 is considered an overpayment.

4. Cost Report

Medicare cost principles limit reimbursement to the costs that would be incurred by a reasonable, prudent and cost-conscious management. 42 CFR 413.9 provides that all payments to providers must be based on the "reasonable cost" of services covered under Tittle XVIII of the Act and related to the care of the Medicare beneficiaries. The regulations at 42 CFR 413.9 state in part that costs which are not necessary include costs which usually are not common or accepted occurrences in the field of the provider's activity.

The review showed that Arlington House claimed costs of $ 1,277,591 that were unnecessary and unreasonable, therefore unallowable. A breakdown of the unallowed costs include: $911,341 disallowed for salaries; $186,101 disallowed for leases and repairs; and $180,149 disallowed for consulting fees.

Salaries:

- $313,907 represents unallowable administrative salaries. The auditors calculated reasonable salaries for administrators and program directors using a 1994 survey of CMHCs by the American Association of Partial Hospitalization (AAPH) which was adjusted for inflation using the CPI rates of 2.6 for 1995 and 2.8 for 1996.

- $369,196 represents unallowable direct patient care salaries. This amount should be disallowed since it was paid to Human Service Workers I and II (HSW) whose duties were determined to be unessential for the provision of partial hospitalization services.

- $61,548 represents unallowable therapist salaries. These payments were made to consultants employed by Florida Help Services (FHS), a non-independent consulting company which is believed to be an illegitimate operation created by the owner of Arlington House.

- $166,689.74 represents the related payroll tax and profit sharing disallowance.

Building Lease And Repair Expenses:

- $73,500 was disallowed for unnecessary rent and $112,601 disallowed for building repairs and maintenance that was unnecessary and unrelated to the PHP operation.

The owner of Arlington House also owned a building in downtown Palatka known as "Spanish Towers." On May 1, 1996, the building was sold to a friend/business acquaintance for $520,000. This individual did not secure an independent mortgage. Instead, the owner of Arlington House provided the mortgage himself, charging the acquaintance an annual interest rate of 12 percent, which is significantly higher than the interest rates set by the Federal Reserve. There was no appraisal of the property at the time of the sale.

On the same date, May 1, 1996 the owner of Arlington House "leased back" the Spanish Towers building from the new owner. The agreed-upon rent payment started at $10,500 for 1996 with a 2 percent annual rent increase in each subsequent year. The rent payments totaled $73,500 for the year and the full amount was claimed in the provider's 1996 cost report.

In addition, the sale and lease of the Spanish Towers building constitute related party transactions. 42 CFR 413.17 specifically addresses related party issues. "Costs applicable to facilities furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable cost of the provider ***at the cost to the related organization***." Related to the provider means that the provider is associated with, is affiliated with, has control of, or is controlled by the organization furnishing the facility. In this case, the provider is the former owner and current mortgage holder of the property he is leasing. As the financier and lessee of the property, he is related to the lessor. These transactions were not properly disclosed and were not conducted at cost as the guidelines required.

According to the owner of Arlington House the additional space was necessary for the operation of the PHP. The premises had the capacity to accommodate 228 patients and the maximum number of patients enrolled at one time was 142. This equates to 37 percent of unutilized space. During the site visit, about half of the 12,584 sq. ft. space was unoccupied. In addition to the unnecessary rent disallowance for Spanish Towers, $112,601 claimed for building maintenance and repair expenses is disallowed. Those expenses are related to the Spanish Towers building and not to the operation of the Arlington House PHP.

Consulting Fees:

- $180,149 was disallowed for consulting fees claimed on the 1996 cost report.

Florida Help Services (FHS) which is owned and controlled by the owner of Arlington House was paid $180,149 for performance management and program development services. These services do not appear to be independent and/or legitimate in the operation of Arlington House CMHC. The corporate officers of FHS are related family members and employees from the CMHC. The C.E.O. of FHS received consulting fees through the company, as well as a salary of $52,717 for the position of Director of Training and Risk Management at Arlington House.

5. Additional Findings

During the review at Arlington House CMHC, 94 percent of the patients who received PHP services during 1996 were referred by Arlington House ALF. Some of the beneficiaries interviewed admitted that they had received $50 as an incentive to participate in the PHP. The provider's Director of Administrative Services was questioned about these incentive payments and confirmed the accuracy of the beneficiaries' statements. The explanation was that $50 was paid from the ALF funds to each resident who agreed to participate in the PHP.

Recommendations

We recommend that:

- the FI maintain the suspension of payments to this provider, until instructed otherwise by HCFA;
- the FI initiate administrative procedures to recover the total amount of the overpayment for this year (1996) and additional time periods ;
- the OIG-Office of Investigations evaluate this case for civil/criminal action.

ARLINGTON HOUSE
(Provider No. 10-4708)

RECORD NO.	BENE. HIC. NO.	RESULTS OF MEDICAL REVIEW	AMOUNT PAID IN 1996	AMOUNT DENIED
1	496-26-7597CI	1. Partial Hospitalization Services were not reasonable and necessary for 5 months under § 1862 (a)(1)(A).	$92,417.02	$36,284
2	244-40-2306CI	1. Services were not reasonable for four groups (services were non-therapeutic) under § 1862(a)(1)(A). 2. All services not provided by qualified staff.	$64,352.60	$38,728
3	008-30-2309CI	1. Services were not reasonable for three groups (services were non-therapeutic) under § 1862(a)(1)(A).	$90,900.20	$16,088
4	161-20-3848CI	1. Patient did not meet eligibility requirements under § 1835 (a)(2)(F). (8 months) 2. Services were not properly authorized by physician. 3. Services were not reasonable for 3 groups (services were non-therapeutic) under § 1862 (a)(1)(A)	$89,236.60	$64,096
5	263-74-7248A	1. Services were not reasonable and necessary for 3 groups (services were non-therapeutic) under § 1862 (a)(1)(A).	$67,304.80	$12,952
6	063-34-7770A	1. Services were not reasonable and necessary for three groups (services were non-therapeutic) under § 1862 (a)(1)(A). 2. Services not reasonable for groups conducted by non-qualified staff were not reasonable and necessary.	$58,211.80	$11,296
7	582-26-2225CI	1. Patient did not meet eligibility criteria under § 1835 (a)(2)f. 2. Services were not reasonable and necessary under § 1862 (a)(1)(A).	$73,379.20	$72,984.00
8	265-37-4559A	1. Services were not reasonable and necessary under § 1862 (a)(1)(A).	No Data.	
9	003-38-8459A	1. Services were not reasonable and necessary for 4 groups (services were non-therapeutic)under § 1862 (a)(1)(A). 2. Services were not reasonable and necessary for groups conducted by non-qualified staff.	$75,567.00	$11,216.00
10	068-01-4593CI	1. Services were not reasonable and necessary for groups (services were non-therapeutic) under § 1862 (a)(1)(A).	$79,262.00	$19,288.00
11	058-38-8252A	1. Partial Hospitalization Services do not qualify for the PHP benefit under § 1861 ff(2). 2. Eligibility and necessity is not supported by records under § 1835 (a)(2)(F). 3. Services were not reasonable and necessary under § 1862 (a)(1)(A). 4. Documentation inadequate to meet reimbursement criteria.	$44,611.60	$41,144.00
12	266-71-9882A	1. Patient did not meet eligibility criteria for 6 months by records under § 1835 (a)(2)(F). 2. Services not reasonable for non-therapeutic groups under § 1862 (a)(1)(A). 3. Services not reasonable for groups conducted by non-qualified staff.	$63,687.00	$41,320.00

RECORD NO.	BENE. HIC. NO.	RESULTS OF MEDICAL REVIEW	AMOUNT PAID IN 1996	AMOUNT DENIED
13	264-04-2012A/B/HA	1. Patient did not meet eligibility for PHP services under § 1835 (a)(2)(F) (From 4/29/96-8/17/96).	$67,642.60	$31,076.00
14	136-42-2956A	1. Patient did not meet eligibility criteria for PHP services under § 1835 (a)(2)(F).	$52,404.00	$24,624.00
15	265-70-8349A	1. Patient did not meet eligibility criteria for PHP services under § 1835 (a)(2)(F). 2. Services were not authorized by physician.	$40,408.32	$33,188.00
16	175-42-7292	1. Services were not reasonable and necessary for non-therapeutic groups under § 1862 (a)(1)(A). 2. Services not reasonable for groups conducted by non-qualified staff.	$56,214.20	$13,320.00
17	090-48-9850A	1. Services were not reasonable and necessary for non-therapeutic groups under § 1862 (a)(1)(A). 2. Services were not reasonable and necessary for groups conducted by non-qualified staff.	$48,122.60	$16,360.00
18	502-52-4319A	1. Patient not eligible for PHP services under § 1835 (a)(2)(F). 2. Services were not reasonable and necessary under § 1862 (a)(1)(A).	$52,992.00	$28,864.00
19	264-02-6829A	1. Patient not eligible for PHP services under § 1835 (a)(2)(F). (from ½/96-3/19/96). 2. Eligibility and necessity is not supported by records. 3. Services were not reasonable and necessary for non-therapeutic groups under § 1862 (a)(1)(A).	$68,647.20	$22,984.00
20	265-27-9144A	1. Services were not reasonable and necessary for non-therapeutic groups under § 1862 (a)(1)(A).	$53,511.40	$12,840.00
Total Amount Paid/Denied			$1,238,872.14	$548,652