IMPROPER PAYMENTS IN THE MEDICAID LABORATORY PROGRAM

LOUISIANA DEPARTMENT OF HEALTH

MEDICAID AUDIT UNIT
ISSUED SEPTEMBER 6, 2017

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 6, 2017

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Taylor F. Barras,
Speaker of the House of Representatives

Dear Senator Alario and Representative Barras:

This report provides the results of our review of improper Medicaid payments for laboratory services. During this review, we identified $4.2 million in improper laboratory payments related to claims paid by either the Louisiana Department of Health (LDH) or Managed Care Organizations. In addition, we found that LDH does not monitor the MCOs to ensure that the laboratory payments they make are in compliance with their Healthy Louisiana contracts. Considering rising state health care costs and limited budgets, it is important that LDH ensure that Medicaid dollars are spent appropriately.

The report contains our findings, conclusions, and recommendations. Appendix A contains LDH's response to this report. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of LDH for their assistance during this audit.

Respectfully submitted,

Thomas H. Cole, CPA
First Assistant Legislative Auditor

THC/ch

MEDICAID LABS 2017

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE

Improper Payments in the Medicaid Laboratory Program
Louisiana Department of Health

September 2017

Audit Control # 80170010

Introduction

The Louisiana Department of Health (LDH) administers the Medicaid program in the state of Louisiana to provide health and medical services for uninsured and medically-indigent citizens. This includes payment for medically-necessary laboratory procedures provided in freestanding laboratory facilities or in settings such as a physician's office or hospital. In 2012, LDH began moving from a fee-for-service (FFS) model, where LDH paid all claims submitted by Medicaid laboratory providers for each service performed, to Healthy Louisiana, a full-risk prepaid managed care model.[1]

Under a full-risk prepaid managed care model, LDH pays a fixed per member per month (PMPM) fee, essentially an insurance premium, to the Managed Care Organization (MCO) for the administration of health benefits, including the processing and payment of all laboratory procedures for Medicaid recipients. LDH contracted with five MCOs[2] to operate the program through January 31, 2018. The MCOs are responsible for the processing and payment of all laboratory claims for recipients participating in Healthy Louisiana. However, LDH maintains responsibility for administration and oversight of the Medicaid program.

The Centers for Medicare and Medicaid Services (CMS) requires all laboratories, whether housed in a physician's office, a hospital, or a freestanding independent laboratory, to have a Clinical Laboratory Improvement Amendments (CLIA) certification in order to perform any type of laboratory test, including simple blood tests or dipstick tests. CLIA certifications allow labs to perform certain levels of tests depending on their certification type. Exhibit 1 describes the CLIA certification types and examples of allowable tests for each.

[1] Healthy Louisiana was previously called Bayou Health. A managed care model is an arrangement for health care in which an organization, such as an MCO, acts as a gatekeeper or intermediary between the person seeking care and the physician. MCOs function similarly to a private insurance company. FFS still covers some Medicaid recipients who are not eligible for managed care.

[2] LDH contracted with AmeriHealth Caritas Louisiana, Inc., Aetna Better Health, Inc., Amerigroup Louisiana, Inc., Louisiana Healthcare Connections, Inc., and UnitedHealthcare Community Plan of Louisiana, Inc. on February 1, 2015. AmeriHealth Caritas, Amerigroup, and Louisiana Healthcare Connections originally contracted with LDH on February 1, 2012.

Exhibit 1 Type of CLIA Certifications			
Type of CLIA Certification	**Complexity Level**	**Description**	**Examples of Allowable Tests**
Certificate of Waiver	Simple	Waived tests are lab tests that are easy to perform and the risk of error in testing is low.	Finger-stick glucose using a glucometer
Certificate for Provider-Performed Microscopy Procedures (PPMP)	Moderate	A physician or midlevel practitioner performs limited tests that require microscopic examination.	Wet prep, urinalysis May also perform waived tests
Certificate of Registration	High	Initial certificate for labs that have applied for a certification of compliance or accreditation	Tests requiring clinical lab expertise, such as cytology, molecular diagnostic tests May also perform PPMP and waived tests
Certificate of Compliance	High	Certificate issued after inspection.	
Certificate of Accreditation	High	Certificate issued after inspection. Lab meets additional requirements for accreditation.	
Source: Prepared by legislative auditor's staff using information from LDH.			

Between fiscal year 2012 and fiscal year 2016, LDH and the five MCOs paid $226,674,882 for 13,941,502 laboratory services. Approximately 85% (11,855,925) of laboratory services were for high complexity tests, the most common tests being complete blood count tests which look for illnesses in blood, chlamydia and gonorrhea tests, and tissue exams done by a pathologist. Exhibit 2 summarizes the number of lab services and total payments per fiscal year.

Exhibit 2 Laboratory Services Fiscal Years 2012 to 2016		
Fiscal Year	**Total Services**	**Total Payments**
FY 2012	1,487,869	$24,855,149
FY 2013	2,924,892	47,645,107
FY 2014	3,070,409	50,047,716
FY 2015	3,368,966	54,589,671
FY 2016	3,089,366	49,537,240
Total	**13,941,502**	**$226,674,883**
Source: Prepared by legislative auditor's staff using Medicaid data.		

The purpose of our analysis was:

To identify improper payments made by LDH and MCOs to laboratories that conducted testing without having the appropriate certification level between July 1, 2011, and June 30, 2016.

Appendix A-1 contains LDH's response to this report and Appendix A-2 includes Aetna's response,[3] which was the only MCO that chose to respond to the report. Appendix B details our scope and methodology.

[3] All of the MCOS were given the opportunity to respond. In Aetna's response, it stated it was not given the opportunity to discuss their credentialing process with LLA. However, we met with all of the MCOs on July 12 and sent multiple emails to them asking for their feedback on the report.

Review of Payments in the Medicaid Laboratory Program

Overall, we found approximately $4.2 million in improper payments that violated Medicaid certification rules for laboratory services or involved invalid laboratory procedure codes between July 1, 2011, and June 30, 2016. In addition, we found that LDH does not monitor the MCOs to ensure that the laboratory payments MCOs make are in compliance with the Healthy Louisiana contracts. We obtained and analyzed all payments made by LDH and the five MCOs for Medicaid recipients to determine if any payments for laboratory services were made to providers that did not have the appropriate CLIA certification. As stated previously, CMS requires all laboratories to have the appropriate CLIA certification to perform laboratory tests, and Medicaid provider manuals also require laboratory providers to be CLIA certified. Specifically, we identified improper payments for the following types of laboratory claims:

- Claims for high-level tests where the laboratory did not have a high-level certificate,
- Claims for Provider-Performed Microscopy Procedures tests where the laboratory did not have a CLIA certification or had only a Certificate of Waiver,
- Claims for waiver tests where the laboratory did not have a CLIA certification, or
- Claims that used invalid procedure codes for waived tests.

Between July 1, 2011, and June 30, 2016, we found $2,440,965 in improper payments for 160,110 laboratory claims when the provider did not have the appropriate CLIA certification at the time the specific type of test was performed. This included $45,278 paid by LDH in FFS payments for 2,878 laboratory claims and $2,395,687 paid by the five MCOs for 157,232 laboratory claims. Of the $2,440,965 in payments that violated CLIA certification rules, $1,464,462 (60%) was improperly paid for 94,994 laboratory tests made by providers that had a lower-level CLIA certification than what the test required, and $976,503 (40%) was paid for 65,116 laboratory tests made by providers that did not appear to have any CLIA certification. Exhibit 3 summarizes laboratory tests violations by CLIA certification levels. Appendix C shows the number of payments and claims made for laboratory services that did not have the proper CLIA certification according to each MCO.

Exhibit 3 Laboratory Claims without the Proper CLIA Certification Fiscal Years 2012-2016		
Provider CLIA Certification	**Payments**	**Claims**
MCOs		
Lower Certification than Required	$1,452,393	94,142
No Certification	943,294	63,090
MCOs Total	**$2,395,687**	**157,232**
FFS		
Lower Certification than Required	$12,069	852
No Certification	33,209	2,026
FFS Total	**$45,278**	**2,878**
Total	**$2,440,965**	**160,110**
Source: Prepared by legislative auditor's staff using Medicaid data from LDH and CMS.		

Recommendation 1: LDH should ensure its list of laboratory provider CLIA numbers and certification levels are accurate and checked against the quarterly CMS CLIA Registry.

Summary of Management's Response: LDH neither agreed nor disagreed with our recommendation. However, it stated that LDH currently updates the Medicaid CLIA file weekly using an automated system to check against the CLIA database. See Appendix A-1 for LDH's full response.

We also found that $1,744,178 was paid for 43,449 claims that involved invalid procedure codes for waived tests. This included $1,462,880 paid by LDH in FFS payments for 37,910 laboratory claims and $281,298 paid by the five MCOs for 5,539 laboratory claims. The majority of these violations used a waived test procedure code that was deleted by CMS in 2010. According to CMS, some laboratories were using questionable billing practices with this code. In response, this procedure code was deleted as a CPT[4] procedure code, and CMS stated that laboratories should not use the code anymore. For FFS claims, Molina has edit checks in place to prevent paying claims to providers that violate CLIA rules; however, these edit checks include deleted procedure codes. Exhibit 4 shows the dollar amounts and number of laboratory claims that used invalid procedure codes.

[4] CPT codes are the current procedural terminology used for medical billing promulgated by the American Medical Association.

Exhibit 4
Laboratory Claims Using Invalid Procedure Codes
Fiscal Years 2012-2016

Provider CLIA Certification	Payments	Claims
FFS	$1,462,880	37,910
MCOs	281,298	5,539
Total	**$1,744,178**	**43,449**

Source: Prepared by legislative auditor's staff using Medicaid data from LDH and CMS.

Recommendation 2: LDH should maintain an updated list of CLIA procedure codes and corresponding test levels. This list should be checked annually against the CMS CLIA test listing to ensure all information is accurate and up to date.

Summary of Management's Response: LDH neither agreed nor disagreed with our recommendation. However, it stated that it disagrees that $1.7 million was paid for claims that involved invalid procedure codes because it stated the code was deleted in 2015. In addition, LDH stated that it currently evaluates the list of payable codes each year as CPT codes are added and removed from the list. When codes are retired, they are made non-payable in the Medicaid Management Information System resulting in a denied claim. See Appendix A-1 for LDH's full response.

LLA Additional Comments: According to CMS, although the procedure code was deleted in 2015, the procedure code for a waived test with the QW modifier was deleted in 2010. As a result, the code was not valid for the services within our audit scope.

Recommendation 3: LDH should review Molina's edit checks currently in place regarding laboratory claims to correct errors in the edits. LDH should also ensure that Molina's edits include up-to-date procedure codes for laboratory tests.

Summary of Management's Response: LDH neither agreed nor disagreed with our recommendation. However, it stated that LDH is currently reviewing the edit checks in place for laboratory claims to ensure they contain up-to-date procedure codes for laboratory tests. See Appendix A-1 for LDH's full response.

LDH does not monitor the MCOs to ensure that the laboratory payments they make are in compliance with their Healthy Louisiana contracts. Of the $49.5 million spent on laboratory services during fiscal year 2016, $45.1 million (91.1%) was payments made by the MCOs. As previously discussed, we identified $2.7 million in improper payments made by MCOs from fiscal years 2012 through 2016. As a result, it is important that LDH monitor MCOs' compliance with their contracts as it is responsible for the administration and oversight of the Medicaid program. According to LDH's contracts with the MCOs, all laboratory providers are required to be CLIA certified. The contracts further state that LDH "will monitor the MCO's performance to assure the MCO is in compliance with the contract provisions."

While Molina has some edit checks in place to verify a laboratory's CLIA compliance for FFS claims, similar edit checks for MCO claims submissions are set to "educational." This means LDH will accept MCO claims submissions that fail the edit check, and that the claims will be logged on a report that LDH can then use for monitoring. However, LDH does not monitor these reports. In addition, LDH does not currently collect enough CLIA information from the MCOs to apply CLIA compliance edit checks in a manner that minimizes inaccuracies in the reports, and LDH does not have an alternative CLIA compliance monitoring process in place for MCO claims submissions. Without performing monitoring activities, LDH cannot ensure that MCOs are in compliance with their Healthy Louisiana contracts.

Recommendation 4: LDH should begin monitoring the MCOs to ensure that the payments they make within the Laboratory Program are in compliance with Healthy Louisiana contractual requirements.

Summary of Management's Response: LDH neither agreed nor disagreed with our recommendation. However, it stated that LDH is currently reviewing this recommendation and is evaluating different options that will allow it to improve its monitoring of the Laboratory Program offered through managed care plans. Its corrective action plan will be implemented by June 30, 2018. See Appendix A-1 for LDH's full response.

APPENDIX A: MANAGEMENT'S RESPONSES

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 24, 2017

Daryl G. Purpera, CPA, CFE
Legislative Auditor
P.O Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Improper Payments in the Medicaid Laboratory Program

Dear Mr. Purpera,

The Management of the Bureau of Health Services Financing (BHSF) appreciates your staff's review of the Medicaid laboratory program. These reviews provide valuable information to BHSF management as we evaluate the efficiency and effectiveness of our processes and procedures relative to the State's Medicaid program.

BHSF management disagrees with your office's statement that $1.7M was paid for claims related to a deleted CPT procedure code. The identified procedure code was not deleted until 2015 and thus was valid for services at the time of the service.

The following is the Department's response to each of the LLA's recommendations.

Recommendation 1: LDH should ensure its list of laboratory provider CLIA numbers and certification levels are accurate and compared against the quarterly CMS CLIA Registry.

LDH Response: LDH currently updates the Medicaid CLIA file weekly using an automated system to compare against the CLIA database.

Recommendation 2: LDH should maintain an updated list of CLIA procedure codes and corresponding test levels. This list should be compared annually against the CMS CLIA test listing to ensure all information is accurate and up to date.

LDH Response: LDH currently evaluates the list of payable codes each year as CPT codes are added and removed from the list. When codes are retired, they are made non-payable in the Medicaid Management Information System resulting in a denied claim.

Recommendation 3: LDH should review Molina's edit checks currently in place regarding laboratory claims to correct errors in the edits. LDH should also ensure that Molina's edits include up to date procedure codes for laboratory tests.

LDH Response: LDH is currently reviewing the edit checks in place for laboratory claims to ensure they contain up-to-date procedure codes for laboratory test. We will continuously monitor these edits in conjunction with our evaluation of payable CPT codes.

Recommendation 4: LDH should begin monitoring the MCOs to ensure that the payments they make within the Laboratory Program are in compliance with Healthy Louisiana contractual requirements.

LDH Response: LDH is reviewing this recommendation and we are evaluating different options that will allow us to improve our monitoring of the Laboratory Program offered through the managed care plans. Our corrective action will be implemented by June 30, 2018.

You may contact Alicia Prevost, Benefits and Covered Services Section Chief, at (225) 342-3892 or via e-mail at Alicia.Prevost@la.gov with any questions about this matter.

Sincerely,

Jen Steele

Jen Steele
Medicaid Director

Aetna Better Health® of Louisiana
2400 Veterans Memorial Blvd., Suite 200
Kenner, LA 70062
1-855-242-0802

aetna®

August 23, 2017

DARYL G. PURPERA, CPA, CFE
Louisiana Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

RE: Improper Payments in the Medicaid Laboratory Program Report

Dear Mr. Purpera,

Aetna Better Health of Louisiana has reviewed the findings in the LLA draft report titled "Improper Payments in the Medicaid Laboratory Program". Aetna takes our obligation to comply with all federal and state laws and contracts very seriously. We appreciate the opportunity to provide feedback to LDH regarding the allegation that improper payments for laboratory services were made to non-CLIA certified providers.

Aetna has a rigorous credentialing process that requires receipt of applicable provider's CLIA certification prior to contracting. Unfortunately, we did not have an opportunity to discuss our process with LLA during this audit. Aetna is conducting its own internal audit to verify payments were remitted appropriately. Aetna will initiate efforts to recoup payments from any uncertified provider in accordance with the legal and contractual rules pertaining to recoupment.

Sincerely,

Peggy McCurry, Plan Compliance Officer

Cc: Kerry Capello, LDH
Rick Born
Mark Grippi
Michelle Carter-Gouge

APPENDIX B: SCOPE AND METHODOLOGY

The objective of our work was:

To identify improper payments made by LDH and MCOs to laboratories that conducted testing without having the appropriate certification level between July 1, 2011, and June 30, 2016.

The scope of our project was significantly less than that required by *Government Auditing Standards*. However, we believe the evidence obtained provides a reasonable basis for our findings and conclusions. To conduct this analysis, we performed the following steps:

- Obtained an electronic copy of Medicaid claims paid for laboratory services from Molina Health Solutions, LDH's fiscal intermediary.
- Obtained CLIA certification files from CMS.
- Obtained LDH contracts with the five MCOs, as well as the Medicaid Professional Services Provider Manual and the Medicaid Independent Laboratory Program Provider Manual from LDH's website.
- Requested and obtained CLIA certification files from each of the five MCOs.
- Used software (e.g., SQL, ACL, Excel) to compare paid claims based on procedure codes and CMS CLIA certificate data to identify situations where a provider had claims that violated its CLIA certification level.
    - We determined each laboratory test's level using CMS's listing of procedure codes for each test type: Waiver, PPMP, or High.
    - For FFS claims, we used Molina data to identify the highest CLIA certification each provider with a laboratory claim held between fiscal years 2012-2016.
    - For MCO claims, we used MCO CLIA data to identify CLIA numbers for providers, and then used CMS data to identify the highest CLIA certification each provider with a laboratory claim held between fiscal years 2012-2016 according to CMS's CLIA certification files.
- Contacted CMS requesting guidance regarding deleted procedure codes.
- Met with LDH and the five MCOs to discuss our methodology on July 12, 2017.
- Provided results to LDH officials for further investigation throughout the project in order to validate our findings and conclusions. Two MCOs, United and Amerihealth, provided additional information indicating that based on their data some violations were overstated. However, LDH did not capture this data and would not have been able to identify these instances.
- Sent the draft report to all five MCOs and gave them the opportunity to respond to the report.

APPENDIX C: PROVIDERS WITHOUT APPROPRIATE CLIA CERTIFICATION

Provider CLIA Certification	Payments	Claims
Aetna		
Lower Certification than Required	$30,219	2,271
No Certification	46,005	2,019
Wrong Procedure Code for Waived Test	787	69
Total	**$77,011**	**4,359**
Amerihealth		
Lower Certification than Required	$322,593	23,241
No Certification	213,834	13,637
Wrong Procedure Code for Waived Test	242,143	3,402
Total	**$778,570**	**40,280**
Amerigroup		
Lower Certification than Required	$485,401	24,327
No Certification	249,416	15,612
Wrong Procedure Code for Waived Test	1,113	108
Total	**$735,930**	**40,047**
Louisiana Health Care Connections		
Lower Certification than Required	$433,792	29,229
No Certification	236,364	17,617
Wrong Procedure Code for Waived Test	24,785	927
Total	**$694,941**	**47,773**
United		
Lower Certification than Required	$180,388	15,074
No Certification	197,675	14,205
Wrong Procedure Code for Waived Test	12,470	1,033
Total	**$390,512**	**30,312**
FFS		
Lower Certification than Required	$12,069	852
No Certification	33,209	2,026
Wrong Procedure Code for Waived Test	1,462,880	37,910
Total	**$1,508,158**	**40,788**

Note: LDH contracted with AmeriHealth Caritas Louisiana, Inc., Aetna Better Health, Inc., Amerigroup Louisiana, Inc., Louisiana Healthcare Connections, Inc., and UnitedHealthcare Community Plan of Louisiana, Inc. on February 1, 2015. AmeriHealth Caritas, Amerigroup, and Louisiana Healthcare Connections originally contracted with LDH on February 1, 2012.
Source: Prepared by legislative auditor's staff using Medicaid data from LDH and CMS.