

LOUISIANA DEPARTMENT OF HEALTH
MEDICAID RECIPIENT REPORT NO.8



INVESTIGATIVE AUDIT
ISSUED SEPTEMBER 30, 2020

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 30, 2020

DR. COURTNEY N. PHILLIPS, SECRETARY
LOUISIANA DEPARTMENT OF HEALTH
Baton Rouge, Louisiana

We are providing this report for your information and use. This audit was performed in accordance with Louisiana Revised Statutes 24:513, *et seq.* to determine the validity of complaints we received.

We found that Medicaid recipient AB may have provided incomplete and inaccurate income information to the Louisiana Department of Health (LDH) when she applied for and received Medicaid benefits for herself, her husband CD, and their two children.

As a result, from December 2015 to October 2018, LDH paid \$38,324 for monthly premiums on behalf of AB, her husband, and their children to the managed care organizations (MCOs) overseeing the state's Medicaid program. LDH also paid \$1,425 in fee-for-service payments to providers for the family.

The MCOs paid \$8,410 to providers on behalf of AB, her husband, and their children for covered health care services.

Had AB provided complete and accurate income information to LDH, she, her husband, and their children may have been found ineligible to receive Medicaid benefits.

The procedures we performed primarily consisted of making inquiries and examining selected financial records and other documents, and do not constitute an examination or review in accordance with generally-accepted auditing or attestation standards. Consequently, we provide no opinion, attestation, or other form of assurance with respect to the information upon which our work was based.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the Louisiana Attorney General, the District Attorney for the 4th Judicial District of Louisiana, the District Attorney for the 19th Judicial District of Louisiana, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa
LDH MEDICAID ELIGIBILITY AB

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BACKGROUND AND METHODOLOGY

The Louisiana Department of Health (LDH) is an executive branch department that reports to the governor. LDH's mission is to protect and promote health and to ensure access to medical, preventative, and rehabilitative services for all citizens of the state of Louisiana. LDH is responsible for developing and providing health and medical services for the prevention of disease for the citizens of Louisiana. LDH provides health and medical services for uninsured and medically indigent persons and also coordinates the delivery of services provided by the Louisiana State University Health Sciences Center with services provided by the Louisiana Department of Health, local health departments, and federally-qualified health centers, including, but not limited to, the following:

- Services for:
 - Persons with mental illness;
 - Persons with intellectual disabilities;
 - Persons with developmental disabilities; and
 - Persons with addictive disorders
- Public health services
- Services provided under the medical assistance program (Medicaid)

In 2012, LDH began transitioning from a fee-for-service (FFS) model, where LDH paid all claims submitted by Medicaid providers for each service performed, to *Healthy Louisiana*,^A a full-risk prepaid managed care model. Under LDH's current full-risk prepaid managed care model, LDH pays a fixed monthly premium to a Managed Care Organization (MCO) for the administration of health benefits and payment of claims for each member. LDH contracted with five MCOs to operate the *Healthy Louisiana* Medicaid program through December 31, 2019.^B However, LDH is responsible for determining Medicaid recipient eligibility and enrolling applicants into Medicaid programs.

LDH used tax return data from the Louisiana Department of Revenue to identify Medicaid recipients who reported income in excess of \$100,000 during tax year 2017. The list of recipients who met these criteria was provided to the LLA in April 2019. AB and CD were included on this list and selected for review by LLA because we determined that AB and CD had

^A *Healthy Louisiana* was previously called Bayou Health. A managed care model is an arrangement for health care in which an organization (e.g., an MCO), acts as a gatekeeper or intermediary between the person seeking care and the physician. FFS still covers some Medicaid recipients who are not eligible for managed care.

^B All five MCO contracts were let for bid to begin covering Medicaid recipients on January 1, 2020, but protests were filed by the losing bidders. The MCOs are currently operating under emergency contracts to administer the Medicaid program through December 31, 2020.

income from self-employment that was not reported to LDH. LLA initiated this investigative audit to determine if AB provided LDH with complete and accurate information to determine Medicaid eligibility for herself, her husband, and their children. The procedures performed during this audit included:

- (1) interviewing LDH employees;
- (2) interviewing other persons, as appropriate;
- (3) examining selected LDH documents and records;
- (4) gathering and examining external parties' documents and records; and
- (5) reviewing applicable state laws and regulations.

FINDING AND RECOMMENDATIONS

Recipient Provided Incomplete and Inaccurate Information to Obtain Medicaid Benefits

AB provided incomplete and inaccurate information to the Louisiana Department of Health (LDH) to obtain Louisiana Medicaid (Medicaid) benefits for herself, her husband (CD), and their two minor children. LDH paid managed care organizations (MCOs) \$38,324 in monthly premiums and \$1,425 to healthcare providers in fee-for-service payments on behalf of AB, CD, and their children for medical services rendered from December 2015 to October 2018. MCOs paid providers \$8,410 for covered health care services on behalf of AB, CD, and their children. During this period, AB failed to disclose changes in her and her husband's income to LDH. Had she provided complete and accurate information, AB, CD, and their children may not have been eligible to receive Medicaid benefits. By providing incomplete and inaccurate information to LDH, AB may have violated state law.^{1,2,3,4,5}

Medicaid provides health coverage to more than 1.9 million Louisianans,^C including eligible low-income adults, children, pregnant women, elderly adults, and people with disabilities. The Medicaid program is administered by LDH, according to federal requirements, and is funded jointly by Louisiana and the federal government. Applicants can apply for benefits through the Louisiana Medicaid Online Application Center or by filling out a paper application. Applicants are required to disclose family members living in the household, including each household member's current job and income information. The Medicaid application requests that each applicant confirm they understand that they must inform LDH of any changes to the information listed on their application and that any change could affect their eligibility. In addition, the Medicaid application requests that the applicant provide true answers to all questions, to the best of their knowledge, and requests the applicant sign the application under penalty of perjury, which could subject them to penalties under federal law if they intentionally provide false or untrue information on the application.

In January 2019, LDH used income tax return data from the Louisiana Department of Revenue to identify Medicaid recipients who reported income in excess of \$100,000 during tax year 2017. The list of recipients who met these criteria was provided to the LLA in April 2019. We initiated this investigative audit to determine if AB and CD provided LDH with complete and accurate information to determine Medicaid eligibility for herself, her husband, and their children.

We reviewed AB and CD's electronic LDH Medicaid case files, their personal and business bank records from December 2015 to October 2018, and their joint 2016 and 2017 federal tax returns. We found that AB failed to notify LDH of changes in self-employment

^C Taken from the Louisiana Department of Health's "Louisiana Medicaid 2018 Annual Report" for the period July 1, 2017 – June 30, 2018.

income from a business she and her husband began in December 2016.^D Had AB properly disclosed the self-employment income, her household income appears to exceed the income limits for the Medicaid programs in which AB, CD, and their two children were enrolled.

Recipients' Medicaid History

LDH records show that AB began receiving Medicaid benefits in August 2011. AB's husband, CD, began receiving Medicaid benefits in June 2015. Their first child began receiving benefits in March 2012 and their second child in June 2015. According to LDH case notes, AB renewed by phone in May 2016, claiming she and CD had no income; they were approved on the same day to continue receiving Medicaid coverage until May 2017. LDH records show that in June 2016, AB's two children were approved to continue receiving Medicaid benefits and their eligibility would be reviewed in May 2017.

In May 2017, LDH again reviewed AB and her family's eligibility; LDH found AB, CD, and their children eligible for renewal and approved them to continue with coverage through May 2018. LDH sent a closure letter to AB, dated September 8, 2017, stating that she, CD, and their two children would lose Medicaid coverage on September 30, 2017, because a request for information LDH mailed to them was returned by the Post Office and LDH was unable to locate the family. The closure letter also stated that they may have to reapply for Medicaid coverage.

AB reapplied for Medicaid coverage for herself, her husband, and their children on October 31, 2017. Her application stated that AB was receiving wages of \$800 every two weeks and CD was receiving wages of \$1,500 monthly (total monthly income of \$3,233). Although the maximum monthly income for the programs they participated in was \$3,014, LDH continued their Medicaid coverage.

In December 2017, LDH identified AB and CD as owners of a Limited Liability Company (LLC).^E As a result, LDH requested proof of earnings or self-employment income for AB and CD, as well as proof of income^F for LLC.

AB provided her and CD's joint 2016 federal and state income tax returns to LDH that show CD's wages and AB's self-employment income for tax year 2016, but did not provide any information showing LLC's profit and loss for October and November 2017. Their joint 2016 federal tax return showed an average income of \$1,131 per month, which LDH used to approve their Medicaid coverage. LDH issued two decision letters (one for AB and CD and one for their children) on January 4, 2018, approving AB and CD's Medicaid coverage beginning in October 2017, and their two children's Medicaid coverage beginning in November 2017. Both decision letters included a reminder in bold font informing the recipients to let their local Medicaid office know about changes in their address, phone number, and health insurance coverage. The

^D Our interview with AB and our review of LDH case notes indicate AB applied for Medicaid benefits during this period.

^E LLC was registered with the Secretary of State on December 15, 2016. AB and CD are registered agents and officers (members).

^F LDH requested a 2016 tax return for LLC or profit and loss statements for the months of October and November 2017.

reminder in AB and CD's decision letter also included a reminder to notify LDH of changes in income and resources (cash, property, vehicles, etc.).

LDH sent AB a letter, dated August 8, 2018, requesting AB's 2017 federal income tax return by September 7, 2018, to renew the family's coverage. According to LDH records, AB contacted LDH in August 2018 to report a new mailing address, but LDH did not receive the requested 2017 federal income tax return. LDH sent AB two letters -- one for her and CD, and one for their minor children -- dated September 25, 2018, notifying them that their Medicaid coverage would cease on October 31, 2018, because they failed to contact LDH. AB, CD, and their dependent children continued to use Medicaid for medical services until LDH discontinued their coverage on October 31, 2018.

Medicaid records show that LDH paid \$38,324 for monthly premiums to MCOs and \$1,425 in fee for service payments directly to providers on behalf of AB, CD, and their children for medical services provided from December 2015 to October 2018. During the same period, the MCOs paid providers \$8,410 for covered health care services for AB, CD, and their two children.

Recipient Failed to Disclose Self-Employment Income

AB provided LDH a copy of her and CD's joint 2016 federal and state income tax return and provided us a copy of their joint 2017 federal income tax return. We also obtained copies of their personal bank statements and LLC's bank statements from December 2015 to October 2018, as well as mortgage documents for a house they purchased in March 2018. According to their joint federal income tax return, AB and CD reported adjusted gross income (AGI) of \$12,885 (an average of \$1,074 per month)^G for tax year 2016, and \$148,498 (an average of \$12,375 per month)^H for tax year 2017. In doing so, AB failed to disclose the following income to LDH:

^G Medicaid income limits are determined by the Federal Poverty Guidelines (FPG), for a family of four, 147% of the FPG was \$2,977 per month from March 1, 2016 to February 28, 2017.

^H For a family of four, 147% of the FPG was \$3,014 per month from March 1, 2017 to February 28, 2018.

Type of Transaction	2016*	2017	2018
Wages	\$4,649	None	None
Cash Deposits to Personal Bank Account	\$85,630		
Checks From LLC	None	\$58,500	\$174,922
Cash Withdrawals From LLC	None	\$26,000	\$23,824
Personal Residence Mortgage paid by LLC	None	None	\$10,609
Downpayment For Personal Residence from LLC	None	None	\$100,000
Probable Total Income	\$90,279	\$84,500	\$309,355
Amount Reported on Medicaid Application	\$-0- Income	\$38,796	No information provided to LDH

* LLC began operations December 2016. Wages and Cash Deposited were from an other source in 2016.

Calendar Year 2016

According to the calendar year 2016 bank statements we reviewed, CD deposited \$4,649 in payroll checks in January and February of 2016. These bank statements also show \$85,630 in cash was deposited into AB and CD's personal bank account during calendar year 2016. One cash deposit of \$39,000 was made in April 2016; the remaining \$46,630 (an average of \$3,886 per month) consisted of 23 deposits, ranging between \$399 and \$4,500, over an 11-month¹ period. This pattern suggests the cash deposits were due to business activity. The joint 2016 federal tax return shows gross receipts from AB's self-employment of \$15,040 and profit of \$9,740.

Calendar Year 2017

LDH wrote to AB, requesting proof of earnings or proof of income and expenses from self-employment on December 15, 2017. LDH also requested LLC's proof of income in the form of an income tax return or profit and loss statements for October and November 2017. AB did not provide any information to LDH for LLC.

LLC's bank statements show AB and CD received \$58,500 (an average of \$4,875 per month) in checks^J and withdrew \$26,000 in cash. These payments were not reported to LDH. In addition, LLC's bank account had an average balance of \$67,843 from January 2017 to December 2017. We also obtained a copy of their joint 2017 federal income tax return, dated September 19, 2018, where they reported adjusted gross income (AGI) of \$148,498 (an average of \$12,375 per month) as income from LLC.

¹ January 4, 2016 to November 29, 2016

^J AB and CD issued themselves \$47,500 of checks where the memo line indicated it was wages. The memo line was blank for the remaining \$11,000 of checks.

Calendar Year 2018

LDH mailed a letter, dated August 8, 2018, to AB, requesting a copy of her 2017 tax return information to determine if the family was eligible to renew their Medicaid coverage. AB did not respond and LDH terminated the family's Medicaid coverage on October 31, 2018.

We reviewed LLC's bank statements from January 2018 to October 2018 and found that AB and CD issued \$174,922 in checks to themselves^K and withdrew \$23,824 in cash. LLC's bank statements show an average balance of \$89,781 to \$174,504 from January 2018 to October 2018. In addition, they used \$100,000 of funds from LLC's bank account to fund a \$100,000 down payment on the personal residence they purchased^L in March 2018. The LLC's account also made four mortgage payments, totaling \$10,609, on AB and CD's mortgage.

We also obtained a copy of AB and CD's completed mortgage application, dated March 29, 2018, which stated their combined personal income was \$131,256 (an average of \$10,938 monthly). In September 2019, AB told us she and CD were unaware of their tax year 2017 income until their accountant filed their 2017 income tax return in September 2018.

Conclusion

AB provided incomplete and inaccurate information to the Louisiana Department of Health (LDH) to obtain Louisiana Medicaid (Medicaid) benefits for herself, her husband, and their two children from December 2015 to October 2018. LDH paid \$38,324 for monthly premiums to Managed Care Organizations (MCOs) and \$1,425 in fee for service payments directly to providers on behalf of AB, CD, and their children for medical services provided from December 2015 to October 2018. The MCOs paid providers \$8,410 for covered health care services for AB, CD, and their children. During this period, AB failed to disclose changes in income to LDH. Had she provided complete and accurate information, AB, CD, and their dependent children may have been ineligible to receive Medicaid benefits. By providing incomplete and inaccurate information to LDH, AB may have violated state law.^{1,2,3,4,5}

^K AB and CD issued themselves \$20,000 of checks where the memo line indicated it was wages. The memo line was blank or "personal" for the remaining \$154,922 of checks.

^L AB and CD purchased a personal residence in March 2018 by paying \$100,000 down and obtaining a \$298,612 mortgage.

Recommendations

We recommend that LDH management seek legal counsel to determine the appropriate action to be taken, including the recovery of payments for improper Medicaid benefits. In addition, LDH management should:

- (1) Strengthen its processes for determining eligibility by verifying all critical eligibility factors (e.g., income, household size) rather than relying on a recipient's self-attestation;
- (2) Ensure its caseworkers re-determine eligibility when they receive information that may affect a recipient's eligibility;
- (3) Use federal and/or state income tax data when making eligibility determinations; and
- (4) Ensure that caseworkers fully document information used to make eligibility decisions.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 14:67(A)** provides that, “Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.”

² **La. R.S. 14:70.9(A)** provides, in part, that, “Government benefits fraud is the act of any person who, with intent to defraud the state or any person or entity through any government benefits administered by any state department, agency, or political subdivision, does any of the following: ... (4) Knowingly makes or causes to be made a false statement or representation of material fact on an application or form for assistance, goods, services, or payments when the false statement or representation is made for the purpose of determining the person’s eligibility to receive benefits or payments. (5) Knowingly conceals or fails to disclose any material fact affecting the applicant’s initial or continued eligibility to receive benefits or payments.”

³ **La. R.S. 14:133(A)** provides that, “Filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, of any of the following: (1) Any forged document. (2) Any wrongfully altered document. (3) Any document containing a false statement or false representation of a material fact.”

⁴ **La. R.S. 14:125(A)** provides that, “False swearing is the intentional making of a written or oral statement, known to be false, under sanction of an oath or an equivalent affirmation, where such oath or affirmation is required by law; provided that this article shall not apply where such false statement is made in, or for use in, a judicial proceeding or any proceeding before a board or official, wherein such board or official is authorized to take testimony.”

⁵ **La. R.S. 46:114** provides in part that, “(A) No person shall obtain or attempt to obtain assistance from the Department of Children and Family Services or the Louisiana Department of Health by means of any false statement, misrepresentation, or other fraudulent device. If during the life, or upon the death, of any person who is receiving or has received assistance it is found that the recipient is receiving or has received assistance through misrepresentation, nondisclosure of material facts, or other fraudulent device, the amount of assistance, without interest, shall be recoverable from him or his estate as a debt due the state by court action.” (B) If at any time during the continuance of public assistance to any person, the recipient thereof, or the husband or wife of the recipient with whom he or she is living, is possessed or becomes possessed of any property or income in excess of the amount declared at the time of application or reinvestigation of his case and in such amount as would affect his needs or right to receive assistance, it shall be the duty of the recipient, or the husband or wife of the recipient, to notify the Department of Children and Family Services or the Louisiana Department of Health of possession of such property or income, and the department shall, after investigation, either cancel the assistance or alter the amount thereof in accordance with the circumstances, provided, that such investigation shows that such property or income does affect the need of the recipient or his right to receive assistance. If during the life, or upon the death, of any person who is receiving or has received assistance it is found that the recipient or his spouse was possessed of any property or income in excess of the amount reported that would affect his need or right to receive assistance, any assistance paid when the recipient or his spouse was in possession of such undeclared property or income shall be recoverable, without interest, from him or his estate as a debt due the state by court action. The possession of undeclared property by a recipient or his spouse with whom he is living shall be prima facie evidence of its ownership during the time assistance was granted, and the burden to prove otherwise shall be upon the recipient or his legal representative. (C)(1) If the personal circumstances of the recipient change at any time during the continuance of assistance, he shall immediately notify the Department of Children and Family Services or the Louisiana Department of Health of the change. Personal circumstances shall include: (a) The members of the household. (b) The place of residence of the recipient. (c) The establishment of a legal or nonlegal union by the recipient. (d) The failure of a child between the ages of sixteen and eighteen years, who is receiving aid to dependent children, to attend school regularly.”

APPENDIX A

Management's Response



State of Louisiana
Louisiana Department of Health
Office of the Secretary

VIA E-MAIL ONLY

September 22, 2020

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

Re: Medicaid Eligibility - [REDACTED]

Dear Mr. Purpera:

Thank you for the opportunity to respond to the findings of your Medicaid Audit Unit report on the Medicaid eligibility of [REDACTED]. The Bureau of Health Services Financing, which is responsible for the administration of the Medicaid program in Louisiana, is committed to ensuring the integrity of the Medicaid eligibility determination process through appropriate management controls.

We reviewed the findings and provide the following responses to the recommendations documented in the report.

Overall Recommendation:

LDH should seek legal counsel to determine the appropriate action to be taken, including the recovery of payments for improper Medicaid benefits.

Response:

LDH will seek legal counsel to determine the appropriate action to be taken, including the recovery of payments for improper Medicaid benefits, in accordance with federal and state authorities.

Recommendation 1:

LDH should strengthen its processes for determining eligibility by verifying all critical eligibility factors (e.g., income, household size, etc.) rather than relying on a recipient's self-attestation.

Response:

Medicaid is operating in compliance with its CMS approved Verification Plan. As a result, LDH uses interfaces and data sources to verify critical eligibility factors such as income, social security number, citizenship and immigration

status, and does not accept self-attestation for these factors. For other eligibility factors, such as residency and household composition, self-attestation is accepted due to limited data sources that provide sufficient, real time information to arrive at an eligibility decision. Where possible, LDH will continue to pursue Interfaces and data sources to aid in strengthening its eligibility determination process.

Recommendation 2:

LDH should ensure its caseworkers re-determine eligibility when they receive information that may affect a recipient's eligibility.

Response:

LDH agrees with this recommendation and will continue to ensure caseworkers comply with agency policy requiring eligibility redetermination when information is received that may affect eligibility of a recipient, consistent with federal law. Additionally, the new eligibility and enrollment system automatically re-determines Medicaid eligibility when new information is received, and it automatically stores information on which determinations are based.

Recommendation 3:

LDH should use federal and/or state income tax data when making eligibility determinations.

Response:

LDH agrees with this recommendation. Beginning in October 2019, federal tax information, to include total household income, began being utilized as an additional electronic data source available to assist in post-authorization reviews.

Recommendation 4:

LDH should ensure that caseworkers fully document information used to make eligibility decisions.

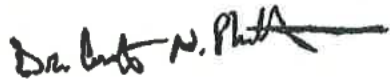
Response:

LDH agrees with this recommendation and will continue to ensure caseworkers comply with state and federal regulation. Additionally, the new eligibility system automatically stores information on which eligibility decisions are based.

Mr. Daryl G. Purpera, CPA, CFE
Medicaid Eligibility - [REDACTED]
September 22, 2020
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Ms. Tara LeBlanc, Medicaid Deputy Director serves as the lead on this matter. If you have any questions or concerns, please contact Ms. LeBlanc by email at tara.leblanc@la.gov.

Sincerely,



Dr. Courtney N. Phillips