

MEDICAID ELIGIBILITY DETERMINATIONS:
STATUS ON THE USE OF FEDERAL TAX INFORMATION

LOUISIANA DEPARTMENT OF HEALTH



MEDICAID AUDIT UNIT REPORT
ISSUED SEPTEMBER 11, 2019

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 11, 2019

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 our understanding of the status of the Louisiana Department of Health's (LDH) use of federal tax information in the Medicaid eligibility determination process. Proper and timely eligibility decisions are critical to ensure LDH does not expend state and federal funds paying per member per month fees to Managed Care Organizations (MCOs) for ineligible individuals. Considering an increase of \$794 million (or 6%) in the Medicaid budget for fiscal year 2020, the state has an ever-increasing obligation to reduce Medicaid improper payments. Also, considering the volatility of health care in Congress and the federal courts, Louisiana's obligations under the Medicaid program could change with the stroke of a pen. To curb current and future state costs, every viable tool should be used. Using tax data would provide verification for Medicaid eligibility factors that are now self-attested by the applicant. Better information will lead to better results.

The purpose of this report was to evaluate the status of LDH's use of federal tax information for Modified Adjusted Gross Income-based (MAGI) Medicaid eligibility determinations.

We found that LDH has ceased its efforts to automate the use of federal tax information in its new eligibility and enrollment system, LaMEDS. In order to use the federal information to help determine an individual's eligibility, the Department must meet specific IRS requirements related to security, office space, and background checks. LDH officials said the compliance options either were not viable or were cost-prohibitive at this time.

In the meantime, LDH is working on a system to use federal tax data for post-eligibility reviews of application determinations and renewals. However, the system is not yet operational. In addition, the Department has not met the IRS physical space requirements for use of the federal tax data or completed the IRS required background checks at this time.

The Honorable John A. Alario, Jr.,
President of the Senate
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Speaker of the House of Representatives
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We noted, as well, that LDH stopped using federal tax information in determining long-term care eligibility cases in April 2019 after the IRS revised its security and background check requirements.

LDH also is not using state tax data for Medicaid eligibility determinations even though it is allowed to do so under state law. Department officials said the way in which the Louisiana Department of Revenue shared the data limited its usefulness.

For a second time, we noted that LDH continues to be unable to verify all critical eligibility factors because the Department did not use federal and/or state tax data in considering each MAGI-based eligibility application or renewal determination.

The report contains our status update 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.

Sincerely,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

STATUSUPDATEONFTI

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Medicaid Eligibility Determinations: Status on the Use of Federal Tax Information Louisiana Department of Health

September 2019

Audit Control #82200001

Introduction

The Louisiana Department of Health (LDH) administers the Medicaid program to provide health and medical services to eligible Louisiana Medicaid recipients. As the single state Medicaid agency, LDH is responsible for all Medicaid eligibility determinations.

In 2014, through the Affordable Care Act, federal regulations changed the requirements for most Medicaid eligibility determinations in Louisiana to a new methodology known as Modified Adjusted Gross Income (MAGI). The new MAGI determination process significantly changed the way Medicaid eligibility was determined and relied on federal income tax information for several critical eligibility factors. In Louisiana, the Children's Health Insurance Program (LaCHIP) is administered through the Medicaid program, so MAGI-based eligibility determinations addressed in this report apply to both federal programs, Medicaid and LaCHIP.

In a previous Medicaid Audit Unit report, *Medicaid Eligibility: MAGI Determination Process*, issued in December 2018, we noted that LDH did not use federal and/or state tax information to verify certain self-attested eligibility factors, including tax filer status, household size, self-employment income, and other types of income. This other income could include retirement and annuities, interest and dividends, and rentals and royalties. We determined this lack of verification to be a weakness in internal control, because tax information was the only trusted source for these critical Medicaid MAGI eligibility factors. Since LDH did not use tax information and federal/state law does not allow auditors to use tax data for the purpose of auditing Medicaid, we determined the lack of tax data to be a scope limitation because we were unable to obtain sufficient appropriate audit evidence to provide an audit opinion on Medicaid and LaCHIP eligibility.

We recommended that LDH ensure all critical eligibility factors are verified rather than relying on self-attestation from the recipient. LDH concurred with the recommendation and noted that with the new eligibility and enrollment system, LaMEDS, LDH would automate the verification of critical eligibility factors with federal tax information incorporated into LaMEDS for use in the verification process. LaMEDS went live on November 13, 2018. LDH provided May 2019 as a target date for the use of federal tax information.

The purpose of this report is:

To provide the status of LDH's use of federal tax information for MAGI-based eligibility determinations.

Appendix A contains LDH's response to this report, Appendix B details our scope and methodology, and Appendix C contains a list of previously-issued Medicaid Audit Unit audit reports.

Objective: To provide the status of LDH's use of federal tax information for MAGI-based eligibility determinations

As of the end of August 2019, LDH has not implemented the use of federal tax information (FTI) for MAGI-based eligibility determinations. In contrast to an earlier response, LDH now states that it will not be able to automate and use FTI through its new eligibility and enrollment system, LaMEDS.

According to documentation and legislative testimony, LDH planned to begin using FTI through LaMEDS by late June 2019, after being postponed from the May 2019 target date. To receive and use FTI data, LDH would first need several approvals from the Internal Revenue Service (IRS). These IRS approvals include:

- A secure IT environment to receive and store FTI
- Physical space security requirements as defined by the IRS
- Required background checks for all personnel who would have access to the data

Based on meetings with LDH, only one approval has been granted by the IRS, with the others requiring more time and work to meet IRS security regulations. This report will provide a status update on LDH's progress toward obtaining and using FTI for MAGI-based Medicaid eligibility determinations. In summary, we noted these issues:

- **LDH has ceased its efforts to develop the automated use of FTI through LaMEDS.** LDH considered its IRS-compliant options to be either not viable or cost prohibitive.
- **LDH has developed an IRS-Compliant Environment to receive and store federal tax data for use in post-eligibility reviews.** The IRS has approved this IT environment.
- **LDH has not met the IRS physical space requirements or completed the IRS required background checks at this time.** At this time, LDH has identified office space and is working on modifications that would meet the IRS security requirements. The estimated timeframe for completing background checks is still unknown.
- **LDH temporarily discontinued using FTI in consideration of Long-Term Care (LTC) eligibility cases in April 2019 as a result of federal requirements.** LDH is currently developing a plan to reinstate use of IRS data in the LTC eligibility determination process.
- **While LDH is allowed by state law to obtain and use state tax information for Medicaid eligibility determinations, it has not done so.** According to the department, the manner in which the information was previously shared by the

Louisiana Department of Revenue (LDR) limited its usefulness in making eligibility determinations.

- **Because LDH did not use federal and/or state tax data during each MAGI-based Medicaid eligibility application and renewal determination, LDH continues to be unable to verify all critical eligibility factors.** In addition, because auditors do not have access to tax data when auditing Medicaid, our scope limitation still exists and will continue.

LDH has ceased its efforts to develop the automated use of FTI through LaMEDS. LDH considered its IRS-compliant options to be either not viable or cost prohibitive.

According to LDH, the department has not received approval from the IRS to use automated FTI in the LaMEDS system. The design of LaMEDS does not meet the privacy requirements for the use of FTI because the FTI itself and any action taken based on tax information would be stored and available in the system. Any evidence or audit trail noting that an eligibility action was based on tax information is prohibited by the IRS.

LDH provided that as a result of discussions with the IRS, only two compliant options were identified for the automated use of FTI data in LaMEDS:

Option 1 - No verification data of any type could be stored in the system, including system actions, requests for information, or any information that could be traced back to FTI. No audit trail for any external data source checks could be included in the system. This would eliminate the user's ability to deduce that an action was taken based on FTI.

Option 2 - All of LaMEDS and its users would need to comply with IRS security requirements, meaning several hundred eligibility employees, administrators, and other users would need to obtain FTI background checks and meet physical work space requirements.

Per LDH, Option 1 was not viable because it does not want to eliminate verification data documentation and audit trails from LaMEDS. Also per LDH, Option 2 would be cost prohibitive at this time.

For the reasons noted above, LDH ceased efforts for the automated use of FTI through LaMEDS and chose to focus on a primarily manual use through post-eligibility reviews.

While Option 2 would cost some undetermined amount of money, the option would allow LDH to move forward with using FTI in LaMEDS. LDH noted that secure physical space for the entire eligibility section and background checks for all eligibility personnel would be cost prohibitive, but did not provide any cost analysis. The Louisiana Department of Revenue (LDR) routinely uses and stores federal tax data with IRS approvals for physical space security and IRS-compliant background checks for all personnel with access to FTI. At LDR, some of the

physical space security is met at the building and the agency access levels, with extra security on IT servers and printer access areas. Almost all LDR personnel receive IRS-compliant background checks. LDR could advise LDH on a security model that would guide LDH on how to effectively secure the Medicaid eligibility unit physical space and provide guidance and insight into the costs. The Legislative Auditor has an audit team embedded at LDR, with each auditor meeting the IRS-compliant background checks. These background checks cost approximately \$50 per person. According to LDH, IRS-compliant physical space requirements would be the largest obstacle and comprise most of the cost. Space in the Baton Rouge office, nine regional offices, and other remote locations would need to be identified and secured.

Under managed care, the department pays a per member per month payment for each eligible person enrolled in Medicaid. For fiscal year 2019, those payments totaled approximately \$7.9 billion. If more accurate Medicaid eligibility determinations using FTI resulted in a correction of erroneous eligibility for just one half of 1% of the enrolled recipients (8,000 recipients out of 1.6 million), that would provide \$48 million in savings each year, for which the state portion could be put toward the cost of security and background checks. LDH should conduct a formal cost analysis using the types of information we have provided above to determine if using FTI in LaMEDS is truly cost prohibitive.

LDH has developed an IRS-Compliant Environment to receive and store federal tax data for use in post-eligibility reviews. The IRS has approved this IT environment.

Using the IRS-compliant environment (the vault), LDH is developing a process to use FTI as a post-eligibility review of application determinations and renewals. The post-eligibility reviews would primarily be manual and be performed in the vault by a few selected LDH personnel.

LDH plans a two-phase approach for use of FTI in the vault:

Phase 1 - Comparison of tax data to the total household income eligibility factor only. According to LDH, implementation will begin once background checks are completed.

Phase 2 - Check/comparison of the tax filer status and household size eligibility factors. No timeline was provided by LDH as it indicated that this step is more complex.

According to LDH, the agency is currently receiving tax data into the vault daily. Once LDH completes all requirements of the IRS, LDH will begin to utilize the data for post-eligibility verification purposes.

According to LDH, initial Medicaid and LaCHIP eligibility determinations will continue in LaMEDS. On a daily basis, after an applicant is determined eligible, the total household income based on the application will be sent to the vault for comparison to FTI data. LDH will use the most recent record within the last two years provided by the IRS. If the most recent record is older than two years, LDH will not consider it current and will not use it.

Currently, the vault will only accept and store FTI for those cases where income, as noted in LaMEDS, and FTI income vary by \$100,000 or more. Cases that fail the income checks will require additional review and will reside in the vault until the post-eligibility reviews begin. According to LDH, it could potentially be months before post-eligibility reviews are performed based on the comparison of FTI data due to the pending IRS approvals of secured physical space and required background checks. LDH expects this timeframe will be reduced once it starts working through the backlog of records currently accumulating.

According to LDH, the IRS requires the retention of FTI logs only but recommends FTI should be destroyed after use or according to the agency record retention schedule. LDH is currently in the process of defining the timeframe for data storage in the FTI vault.

LDH has not met the IRS physical space requirements or completed the IRS-required background checks at this time.

According to LDH, the IRS mandates that FTI data only be accessed in a secure physical space that meets very specific security requirements, such as door hinge pins that are either non-removable or located on the inside of the room. At this time, LDH has identified office space and is working on modifications that would meet the IRS security requirements.

In order to access FTI data, the IRS also requires extensive, multi-layered background checks of personnel. The agency has identified the individuals who will need FTI access. Several staff have passed both federal and state background checks, with local checks pending. The estimated timeframe for completing the background checks is unknown at this time.

LDH temporarily discontinued using FTI in consideration of Long-Term Care (LTC) eligibility cases in April 2019 as a result of federal requirements.

Prior to April 2019, LDH accessed IRS tax data using the State Income and Eligibility Verification System for LTC eligibility determinations. Historically, tax data was used in LTC determinations to identify all income and evidence of income derived from assets, because gross income and assets are both part of the eligibility requirements for this group.

According to LDH, it had two post-eligibility review staff members and at least one LTC staff member with access to IRS data but only for purposes of LTC reviews. The IRS updated security policies in 2016,¹ including background check requirements for those individuals with FTI access. LDH temporarily stopped using IRS data for LTC cases because previously performed background checks were not compliant with current standards. LDH is currently developing a plan to reinstate use of IRS data in the LTC eligibility determination process.

¹ IRS Publication 1075, <https://www.irs.gov/pub/irs-pdf/p1075.pdf>, effective September 2016

While LDH is allowed by state law to obtain and use state tax information for Medicaid eligibility determinations, it has not done so, noting that the manner in which the information was previously shared by the Louisiana Department of Revenue limited its usefulness in making eligibility determinations.

In a previous Medicaid Audit unit report, *Strengthening of the Medicaid Eligibility Determination Process*, issued May 2, 2018, we noted that LDH had an agreement with LDR to receive state income tax information. However, LDH does not use this data. According to LDH, the manner in which the information was shared by LDR limited its usefulness in making eligibility determinations. Instead of receiving a full data set of tax information, LDR only allowed LDH to make specific requests about particular individuals. In addition, LDR would report to LDH income for all people in the household but not specify how much each person within the household made.

Also in the previous report, we noted that 30 states use federal and/or state tax data as part of Medicaid eligibility determinations. While federal tax information may have been LDH's first choice as a data source, state tax data, with the proper data sharing agreement between LDH and LDR, could possibly provide some verification of self-attested information for tax filer status, household size, and total income, including self-employment income.

Since LDH ceased efforts to use FTI due to IRS requirements and approval, state tax information could provide a good alternate information source to automate in LaMEDS.

Because LDH did not use federal and/or state tax data during each Medicaid eligibility application and renewal determination, LDH continues to be unable to verify all critical eligibility factors. In addition, because auditors do not have access to tax data when auditing Medicaid, our scope limitation still exists and will continue.

In fiscal year 2019, LDH paid approximately \$5.5 billion in managed care premiums for MAGI-based recipients. This is approximately 44% of the Louisiana Medical Vendor Payment budget. Because LDH has not implemented the use of tax information for MAGI-based determinations, LDH continues to be unable to verify all critical eligibility factors. Because federal/state law does not allow auditors to use tax information for the purpose of auditing Medicaid, we continue to have a scope limitation for our audit because we are unable to obtain sufficient appropriate evidence to adequately test Medicaid and LaCHIP MAGI-based eligibility determinations. Until the scope limitation is removed from our audit of Medicaid, it is likely that we will continue to disclaim an opinion on Medicaid and LaCHIP eligibility.

The scope limitation will only be removed when the auditors can obtain sufficient appropriate audit evidence regarding Medicaid eligibility, including verification of critical eligibility factors including tax filer status, household size, and total income.

Recommendation 1: LDH management should conduct a cost analysis for the option of using an IRS-compliant method for utilizing automated federal tax data in LaMEDS before deeming the possibility to be cost prohibitive.

Summary of Management's Response: LDH agreed with this recommendation and stated it is conducting an analysis of both fiscal and programmatic impacts of the system integration of FTI in LaMEDS.

Recommendation 2: If a cost analysis shows that an IRS-compliant method for utilizing automated federal tax data in LaMEDS is truly cost prohibitive, LDH should explore the possibility of using state tax data in LaMEDS instead.

Summary of Management's Response: LDH agreed with this recommendation and stated that if a cost analysis determines that the automated use of FTI is cost prohibitive, it will work with LDR to determine if the automated use of state tax data would be practical and permissible.

Matter for Legislative Consideration: The legislature may wish to consider moving all or part of the Medicaid eligibility function to the Louisiana Department of Revenue to utilize an established secure environment that is already IRS approved and experienced in the security and use of federal tax information.

APPENDIX A: MANAGEMENT'S RESPONSE



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

September 6, 2019

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

Re: Medicaid Eligibility - Status on the Use of Federal Tax Information

Dear Mr. Purpera:

Thank you for the opportunity to respond to the findings of your Medicaid Audit Unit report on the status of the use of federal tax information (FTI) in Medicaid eligibility determinations. 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 have reviewed the findings and provide the following response to the recommendations documented in the report.

Recommendation 1: LDH management should conduct a cost analysis for the option of using an IRS compliant method for utilizing automated federal tax data in LaMEDS before deeming the possibility to be cost prohibitive.

LDH Response: LDH agrees with this recommendation and is currently in the process of conducting an analysis of both fiscal and programmatic impacts of the systematic integration of FTI in LaMEDS. While this study is not yet complete, the multitude of factors under consideration indicate support of our initial determination that this approach is cost-prohibitive. These include but are not limited to:

- Establishing a team of staff dedicated to submitting, reviewing, and approving background checks for the approximately 2,600 LaMEDS users, both during the initial implementation of the systematic use of FTI and continuously as user turnover occurs.
- To date, background checks have averaged \$69 per person.
- Upgrading physical spaces to meet IRS specifications. Upgrades would be required for the Bienville building, Bon Carre, all nine regional offices, and any other setting where LDH and/or its business partners use LaMEDS. For example, any employee accessing FTI must

be housed in an office behind a locked door with no window access. Currently the majority of our employees are housed in open office/cubicle settings.

- Upgrading the entire LaMEDS technological environment so that it meets the same security specifications as the FTI-compliant environment.

LDH management would like to clarify that although LDH is not currently pursuing the use of automated FTI, great strides have been made in our progress towards the manual use of FTI in post-eligibility reviews of those cases most likely to yield useful results. In this post-eligibility review process, approved staff will manually review FTI records that are sent to a secure environment that is external to LaMEDS. It is expected that the manual use of FTI for post-eligibility reviews will begin in the near future.

Recommendation 2: If a cost analysis shows that an IRS compliant method for utilizing automated federal tax data in LaMEDS is truly cost prohibitive, LDH should explore the possibility of using state tax data in LaMEDS instead.

LDH Response: If a cost analysis determines that the automated use of FTI would be cost-prohibitive, LDH will work with the Louisiana Department of Revenue to determine if the automated use of state tax data would be practical and permissible.

You may contact Jen Steele, Medicaid Director, at (225) 342-9240 or via e-mail at Jen.Steele@la.gov with any questions about this matter.

Sincerely,



Cindy Rives
Undersecretary

CR/JS/DEPH

APPENDIX B: SCOPE AND METHODOLOGY

The purpose of our analysis was:

To provide the status of LDH’s use of federal tax information for MAGI-based eligibility determinations.

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. In order to develop this report, we performed the following steps:

- Met with LDH on June 27, 2019, to gain an understanding of the status of LDH’s implementation of FTI use for MAGI-based eligibility determinations.
- Documented the status of FTI use as discussed in the meeting.
- Provided notes from the meeting to LDH and requested feedback.
- Met with LDH on August 21, 2019, to discuss draft report and request feedback.
- Requested formal response from LDH on August 23, 2019.

APPENDIX C: MAU ISSUED REPORTS DETAIL

Issue Date	Title
September 4, 2019	<i>Improper Billing of Services Within the Medicaid Behavioral Health Program</i>
May 15, 2019	<i>Identification of Behavioral Health Service Providers</i>
May 1, 2019	<i>Update on wage Verification Process if the Medicaid Expansion Population</i>
April 17 2019	<i>Medicaid Recipient Report No. 1</i>
December 12, 2018	<i>Medicaid Eligibility: Modified Adjusted Gross income Determination Process</i>
November 8, 2018	<i>Medicaid Eligibility: Wage Verification of the Expansion Population</i>
October 31, 2018	<i>Identification of Incarcerated Medicaid Recipients</i>
June 20, 2018	<i>Reliability of Medicaid Provider Data</i>
May 2, 2018	<i>Strengthening of the Medicaid Eligibility Determination Process</i>
November 29, 2017	<i>Improper Payments for Deceased Medicaid Recipients</i>
October 4, 2017	<i>Monitoring of Medicaid Claims Using All-Inclusive Code (T1015)</i>
September 6, 2017	<i>Improper Payments in the Medicaid Laboratory Program</i>
July 12, 2017	<i>Prevention, Detection, and Recovery of Improper Medicaid Payments in Home and Community-Based Services</i>
March 29, 2017	<i>Duplicate Payments for Medicaid Recipients with Multiple Identification Numbers</i>
March 22, 2017	<i>Program Rule Violations in the Medicaid Dental Program</i>
October 26, 2016	<i>Medicaid Recipient Eligibility – Managed Care and Louisiana Residency</i>
<p>Source: MAU reports can be found on the LLA’s website under “Reports and Data” using the “Audit Reports by Type” button. By selecting the “Medicaid” button, all MAU reports issued by LLA will be displayed. https://www.lla.la.gov/reports-data/audit/audit-type/index.shtml?key=Medicaid</p>	