

LOUISIANA DEPARTMENT OF HEALTH
MEDICAID RECIPIENT REPORT NO. 9



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 and household information to the Louisiana Department of Health (LDH) when she applied for and received Medicaid benefits.

As a result, from December 2015 to June 2020, LDH paid \$23,206 for monthly premiums on behalf of AB to the managed care organizations (MCOs) overseeing the state's Medicaid program. The MCOs paid \$36,077 to providers on behalf of AB for covered health care services.

Had AB provided complete and accurate income and household information to LDH, she 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 3rd Judicial District of Louisiana, 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 (LDR) 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 was included on this list and selected for review by LLA because of the level of activity in her Medicaid case file

^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 bid out 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.

(claims paid in excess of \$16,000). LLA initiated this investigative audit to determine if AB provided LDH with complete and accurate information to determine her Medicaid eligibility. 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

Medicaid recipient AB provided incomplete and inaccurate information to the Louisiana Department of Health (LDH) to obtain Louisiana Medicaid (Medicaid) benefits. LDH paid Managed Care Organizations (MCOs) \$23,206 for monthly premiums on AB's behalf from December 2015 to June 2020. The MCOs paid health care providers \$36,077 for AB's covered services. During this period, AB failed to disclose all household members and household income to LDH. Had she provided complete and accurate information, AB may have been ineligible to receive Medicaid benefits. AB was still enrolled in the Medicaid program as of August 31, 2020. 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 (LDR) to identify Medicaid recipients who reported income in excess of \$100,000 during tax year 2017 and generate a list of those recipients. AB was on that list. We initiated this investigative audit to determine if AB provided LDH with complete and accurate information to determine her Medicaid eligibility.

We reviewed AB's LDH electronic Medicaid case file and her spouse's bank records from December 2015 to June 2020. We found that AB failed to disclose her spouse (as a household member) and his wages to LDH. Had she properly disclosed this information to LDH, AB's household income appears to exceed the income limits for the Medicaid programs in which she was enrolled from December 2015 to June 2020.^D

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

^D We used June 2020 as a cut-off for our report since we had bank records through that date. However, Medicaid records show AB was still enrolled in Medicaid as of August 31, 2020.

Recipients' Medicaid History

LDH records show that AB has received Medicaid benefits since at least August 2004. AB applied for coverage renewal on February 8, 2016, and described her household as consisting of her and her grandchild, but only applied for Medicaid coverage for herself. According to her application, AB had no income and would not file a federal income tax return or be claimed as a dependent on someone else's federal income tax return. LDH paid for benefits in the form of monthly MCO premiums and MCOs paid for AB's covered health services.

LDH notified AB by letter, dated February 1, 2017, that her Medicaid coverage was renewed until February 28, 2018. The following year, LDH notified AB by letter, dated January 31, 2018, that she remained eligible for Medicaid coverage and that her Medicaid coverage would be renewed, effective March 1, 2018. The January 31st letter did not contain an expiration date for her Medicaid coverage. Case notes show LDH performed wage verifications for AB in February 2017 and January 2018, by reviewing Louisiana Workforce Commission (LWC) records which showed that AB had no income.

Then, in January 2019, AB appeared on the LDR's list of Medicaid recipients who reported income of \$100,000 or more during tax year 2017. LDH referred her Medicaid case to its Recipient Fraud Unit for review and sent her a letter requesting a copy of her 2017 income tax return and verification of wages earned by her and her spouse during 2018. LDH records show that it never received any documentation from AB, which resulted in a Medicaid coverage cancellation letter, dated March 31, 2019.

AB reapplied for Medicaid coverage on April 29, 2019. The application contained instructions listing who should be included as household members such as herself, her spouse, any children under 21 who lives with her, an unmarried partner who needs health coverage, anyone she includes on her tax return even if they do not live with her, and anyone else under 21 whom she takes care of and lives with her. AB's application shows her marital status as "divorced," that she is the only person in her household, and that she is not a tax filer (income taxes). LDH records show that AB's benefits were renewed beginning April 1, 2019. As of August 31, 2020, she was still enrolled in the Medicaid program.

Medicaid records show that LDH paid MCOs \$23,206 for monthly premiums on AB's behalf from December 2015 to June 2020. During the same period, the MCOs paid providers \$36,077 for AB's covered health care services.

Recipient Failed to Disclose All Household Members and Income

LDH identified AB as a Medicaid recipient with income in excess of \$100,000 from a 2017 federal income tax return. AB claimed she had no income on her February 2016 Medicaid application and that she did not plan to file a federal income tax return in 2017 (either independently, jointly, or as a dependent). However, the tax information suggests AB filed a joint tax return with a spouse who earned income in excess of \$100,000 during 2017.

Parish Clerk of Court records show that AB married NM in June 2007. AB's address on her February 8, 2016, Medicaid application is the same as the address as her spouse's Louisiana driver's license and the registration on two of his vehicles. We went to that address in September 2019 and neither AB nor her spouse were living there. In December 2019, we went to an address where her spouse had a utility account and found AB. She acknowledged she was married and that her spouse was currently employed.

Based on this information, as well as AB's statement to us, it appears AB and her spouse were married and living in the same household when AB was receiving Medicaid benefits. As such, AB was required to include her spouse as a household member on her Medicaid applications, but did not. Had AB properly included her spouse on her Medicaid applications, LDH could have verified his income through the Louisiana Workforce Commission database to determine household eligibility.

To determine AB's household income, we obtained her spouse's personal bank account records^E from December 2015 to June 2020. These records show that her spouse received wages that appear to exceed the income limits for the Medicaid programs that AB was enrolled in from January 2016 to December 2019.

Her spouse's bank records show the following deposits to his personal checking account that appear to be wages from December 2015 to June 2020:

- Calendar Year 2016 - \$61,957 (\$5,163 per month)^F
- Calendar Year 2017 - \$60,734 (\$5,061 per month)^G
- Calendar Year 2018 - \$70,185 (\$5,849 per month)^H
- Calendar Year 2019 - \$63,814 (\$5,318 per month)^I
- January to June 2020 - \$34,214 (\$6,221 per month)^J

Based on this information, the wages her spouse received appear to exceed the income limits for the Medicaid programs that AB was enrolled in from December 2015 to June 2020. For a family of two (husband and wife), the income limits ranged from \$1,842 per month in 2016 to \$1,946 per month in calendar year 2019. During this period, her spouse's net wages averaged \$5,522 per month.

^E NM's bank statements from December 2015 to June 2019 were mailed to the address listed on AB's 2016 renewal application.

^F Medicaid income limits are determined by the Federal Poverty Guidelines (FPG). For a family of two in the expansion group, 138% of the FPG was \$1,843 per month from March 1, 2016 to February 28, 2017.

^G For a family of two, 138% of the FPG was \$1,868 per month from March 1, 2017 to February 28, 2018.

^H For a family of two, 138% of the FPG was \$1,893 per month from March 1, 2018 to February 28, 2019.

^I For a family of two, 138% of the FPG was \$1,945 per month from March 1, 2019 to February 29, 2020.

^J For a family of two, 138% of the FPG was \$1,983 per month effective March 1, 2020.

Conclusion

AB provided incomplete and inaccurate information to the Louisiana Department of Health (LDH) to obtain Louisiana Medicaid (Medicaid) benefits from December 2015 to June 2020. LDH paid Managed Care Organizations (MCO) \$23,206 for monthly premiums on AB's behalf from December 2015 to June 2020. The MCOs paid health care providers \$36,077 for AB's covered services. During this period, AB failed to disclose all household members and household income to LDH. Had she provided complete and accurate information, AB 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}

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, CFF
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