

LOUISIANA DEPARTMENT OF HEALTH
MEDICAID RECIPIENT REPORT NO. 7



INVESTIGATIVE AUDIT
ISSUED SEPTEMBER 23, 2020

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 23, 2020

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

We are providing this report for your information and use. This investigative 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 A.B. 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 and her three children.

As a result, from January 2016 to March 2020, LDH paid \$57,454 for monthly premiums on behalf of A.B. and her children to the managed care organizations (MCOs) overseeing the state's Medicaid program. LDH also paid providers \$19,065 directly for Medicaid services.

The MCOs paid \$71,198 to providers on behalf of A.B. and her children for covered health care services.

Had A.B. provided complete and accurate income information to LDH, she and her children may have been found ineligible to receive Medicaid benefits from January 2016 to March 2020.

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 24th 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

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EXECUTIVE SUMMARY

Recipient Failed to Disclose All Income Information to Obtain Medicaid Benefits

From January 2016 to March 2020, Medicaid recipient A.B. provided incomplete information to the Louisiana Department of Health (LDH) to obtain Louisiana Medicaid (Medicaid) benefits for herself and her three children. LDH paid \$57,454 for monthly premiums to Managed Care Organizations (MCOs) and \$19,065 directly to providers on behalf of A.B. and her children. The MCOs paid providers \$71,198 for covered health care services for A.B. and her children. During this period, A.B. failed to disclose to LDH all income. Had A.B. provided accurate information, she and her children may have been ineligible to receive Medicaid benefits. By providing incomplete information to LDH, A.B. may have violated state law.

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 fee 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. A.B. was included on this list and selected for review by LLA because of the level of activity on her Medicaid case

^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.

(encounter payments in excess of \$16,000). LLA initiated this investigative audit to determine if A.B. provided LDH with accurate information to determine Medicaid eligibility for herself and her 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 Failed to Disclose All Income Information to Obtain Medicaid Benefits

From January 2016 to March 2020, Medicaid recipient A.B. provided incomplete information to the Louisiana Department of Health (LDH) to obtain Louisiana Medicaid (Medicaid) benefits for herself and her three children. LDH paid \$57,454 for monthly premiums to Managed Care Organizations (MCOs) and \$19,065 directly to providers on behalf of A.B. and her children. The MCOs paid providers \$71,198 for covered health care services for A.B. and her children. During this period, A.B. failed to disclose to LDH all income. Had A.B. provided accurate information, she and her children may have been ineligible to receive Medicaid benefits. By providing incomplete information to LDH, A.B. may have violated state law.^{1,2,3,4,5}

Medicaid provides health coverage to more than 1.6 million Louisianans, 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 that 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. The list of recipients who met these criteria was provided to the LLA in April 2019. A.B. was included on this list and selected for review by LLA because of the level of activity on her Medicaid case (encounter payments in excess of \$16,000). LLA initiated this investigative audit to determine if A.B. provided LDH with complete and accurate information to determine Medicaid eligibility for herself and her children.

We reviewed A.B.'s LDH electronic Medicaid case file (case file) and obtained personal and business bank records for A.B. and her husband, N.M., from January 2016 to February 2020. In addition, A.B. and N.M. provided us with a copy of their 2017 joint federal income tax return. During our review of these records, we found that although A.B. reported some of the wages N.M. received from three of his businesses to LDH, she failed to disclose all of their income, including income from at least 13 businesses N.M. was associated with during this period. Further, N.M.'s bank records suggest that he had income in addition to his wages including:

- funds that N.M. transferred from his business accounts to his personal bank accounts;
- cash deposits to his personal bank account; and
- cash payments for personal credit cards.

These transactions, combined with the wages paid to N.M., appear to have increased A.B.'s household income above the income limits for the Medicaid programs that she and her children were enrolled in from January 2016 to March 2020.

Recipient's Medicaid History

LDH records show that A.B. initially applied for Medicaid benefits in February 2012, while pregnant with her first child. A.B. received Medicaid benefits through November 2012, and her firstborn child continued to receive Medicaid benefits through November 2013. In December 2013, A.B. completed a new Medicaid application, which indicated she was pregnant with her second child, and was approved for benefits during her pregnancy. After having her second child, A.B.'s two children continued to receive Medicaid benefits and LDH renewed their benefits in October 2014. Coverage for A.B.'s first child was reviewed in July 2015. Records show that LDH verified wages for A.B.'s husband, N.M., through the Louisiana Workforce Commission (LWC) database and found that the wages reported by his employers (\$2,500 per month) were less than the Medicaid program income limits. LDH renewed Medicaid coverage for A.B.'s children in December 2015 and December 2016, based on wage verifications which showed N.M.'s employers continued to report wages totaling \$2,500 per month.

On January 20, 2017, A.B. submitted an application for herself which indicated that she was pregnant with her third child. According to the application, A.B. planned to file an income tax return with her husband and that her husband's current income (the only income listed on the application) was \$2,000 per month. LDH sent A.B. a letter on January 26, 2017, which requested that she provide proof of earnings for the last year for her husband. According to LDH records, A.B. provided N.M.'s check stubs for October 2016 through December 2016 and IRS Wage and Tax Statements for tax year 2016 which showed that N.M. earned \$1,250 per month each (\$2,500 per month in total) from two separate businesses entities (Business Entity No. 1 and Business Entity No. 2).^C Based on this information, A.B. was approved for Medicaid coverage effective January 1, 2017.

According to A.B.'s case file, LDH began reviewing Medicaid coverage for all household members in August 2017. LDH records show that A.B.'s third child (born in August 2017) was approved for Medicaid coverage beginning August 1, 2017, as she was born while her mother was receiving Medicaid coverage. Coverage for A.B. and her children was renewed in October 2017, and again in August 2018, after LDH verified N.M.'s wages through the LWC database. These verifications showed that N.M. was paid wages totaling \$4,250 per month, split

^C According to Louisiana Secretary of State (SoS) Corporations Database, Business Entity No. 1 and Business Entity No. 2 were Louisiana limited liability companies for which N.M. was the registered agent and sole member (manager) of each business.

between three businesses (Business Entity No. 1, Business Entity No. 2, and Business Entity No. 3).^D

In January 2019, LDH used income tax return data from LDR to identify Medicaid recipients who reported income in excess of \$100,000 during tax year 2017. Because A.B. was included on this list, LDH referred her Medicaid case to its Recipient Fraud Unit for review and sent her a letter on February 13, 2019, requesting that she provide a copy of her 2017 income tax return and verification of wages earned by her and her spouse during calendar year 2018. Records show that LDH terminated A.B.'s Medicaid coverage effective March 31, 2019, because she did not provide the information LDH requested. According to her case file, A.B. reapplied for Medicaid coverage for herself and her children on September 13, 2019. This application showed her marital status as separated and that there was no household income. LDH approved A.B. and her children for Medicaid coverage effective June 1, 2019. A.B.'s Medicaid coverage was subsequently closed effective February 1, 2020, for failure to respond to a request for information.

Medicaid records show that LDH paid \$57,454 for monthly premiums to MCOs and \$19,065 directly to providers on behalf of A.B. and her children from January 2016 to March 2020. During the same period, the MCOs paid providers \$71,198 for covered health care services for A.B. and her three children.

Businesses Owned by N.M.

The Louisiana Secretary of State (SoS) Corporations Database shows N.M. was associated with 16 business entities (including Business Entity Nos. 1-3) during our audit period. According to SoS records, N.M. was the registered agent and sole member (manager) of five of these business entities; the registered agent and a manager of six of these business entities; and, a manager/member of five of these business entities.

Although N.M. appears to have been associated with all 16 business entities, A.B. only reported that N.M. earned \$2,000 per month on her January 20, 2017 Medicaid application. In addition, her case file indicated that N.M. received compensation, in the form of wages, from only three of these business entities. The wage verifications in A.B.'s case file showed that Business Entity No. 1, Business Entity No. 2, and Business Entity No. 3, reported (in total) the following wages to LWC for N.M.: \$33,750 in calendar year 2016; \$48,000 in calendar year 2017; and \$51,000 in calendar year 2018. However, since LDH identified A.B. as a Medicaid recipient with income in excess of \$100,000 during tax year 2017, it would appear that either she or her husband had additional income that was not reported to LWC and LDH. Based on this information, we obtained personal and business bank records for A.B. and her husband from January 2016 to February 2020, as well as loan records from their home refinance in August 2016. In addition, the N.M. provided us with a copy of their 2017 joint federal income tax return.

^D SoS records show that these businesses included the two businesses (Business Entity No. 1 and Business Entity No. 2) mentioned in footnote C and a third business (Business Entity No. 3) for which N.M. was the registered agent and a manger.

Recipients Failed to Disclose All Income

We reviewed N.M.'s business and personal bank statements from January 2016 to February 2020, including: two personal bank accounts; 15 business accounts; business and personal credit card account records; and, documentation for an auto loan. These records show that N.M. received distributions from several of his business accounts in the form of checks, electronic transfers, and cash withdrawals. In addition, N.M. made cash deposits to his personal bank account and used cash from unknown sources (sources other than his personal bank accounts), to pay for personal credit cards. These transactions averaged \$13,031 per month from January 2016 to February 2020^E and included the following:

- \$210,625 in checks payable to N.M. from business accounts,
- \$120,000 in electronic transfers from business accounts to N.M.'s personal bank accounts,
- \$96,142 in cash withdrawals from business accounts,
- \$107,624 in cash deposits to N.M.'s personal bank accounts, and
- \$117,194 in cash payments for N.M.'s personal credit cards.

The transactions mentioned above do not appear to have been disclosed to LDH during the period in which A.B. and her children received Medicaid benefits. LDH records show that A.B. completed an on-line Medicaid application in January 2017. Although A.B. reported that her household earned wages totaling \$2,000 per month, she did not disclose income from any other source, including income from businesses owned by N.M..

During our review, we found that N.M. and A.B. refinanced their home in August 2016. According to the loan file, the home was originally purchased for \$370,000 by N.M. and A.B. on October 31, 2014, with a mortgage in the amount of \$296,000. The refinance loan application that N.M. signed on June 28, 2016, indicated that his monthly income was \$5,577, which included base income of \$2,500 per month and business income of \$3,077 per month. According to the closing disclosure that N.M. and A.B. signed on August 24, 2016, the monthly payment^F would be \$2,412. Based on the information provided to their mortgage company from June 2016 to August 2016, it appears that N.M. and A.B. had monthly income in excess of the amounts that were reported to LWC and LDH. The income limits for the Medicaid programs that A.B. and her children were enrolled in from January 2016 to August 2016 ranged between \$4,386 and \$4,395.^G

^E Medicaid income limits are determined by the Federal Poverty Guidelines (FPG). Based on the Medicaid programs that A.B. and her children were enrolled in, the income limits were 217% of the FPG and ranged from \$4,386 to \$5,548 from January 2016 to March 2020.

^F The amount of the new loan was \$248,000. The monthly payment included principal, interest, property taxes, and homeowner's insurance.

^G For a family of four, 217% of the FPG was \$4,386 per month in January 2016 and \$4,395 per month from February 1, 2016 to August 2016.

In addition, N.M. provided us with a copy of their 2017 joint federal income tax return. According to this tax return, their adjusted gross income was \$121,637 (\$10,136 monthly) which included \$48,000 in wages and business income from 13 different business entities totaling \$73,637. The income limits for the Medicaid programs that A.B. and her children were enrolled in from January 2017 to December 2017 ranged between \$4,386 and \$5,205.^H

In addition to the transactions mentioned above, we found the following:

- N.M. and A.B. paid their August 2016 mortgage in approximately 30 months (by February 2019). N.M. and A.B. paid \$303,528 towards their mortgage during this period.
- N.M. purchased a vehicle in August 2019. According to the loan application, N.M. indicated that he was the president of a business entity with a monthly salary of \$12,500 (\$150,000 annually). The sales price of the vehicle was \$81,600; N.M. paid \$25,000 down on August 2, 2019.

We spoke with N.M. and A.B. on November 5, 2019. N.M. told us that he and a friend own two business entities and that his income from the two businesses is approximately \$36,000 per year. N.M. stated that he purchased his home five years ago and that a friend helps him pay for his mortgage. N.M. stated that his mortgage is approximately \$1,400 per month. At the time that N.M. made this statement, his mortgage, which had a monthly payment of \$2,412, had been paid off for several months.

Conclusion

From January 2016 to March 2020, Medicaid recipient A.B. provided incomplete information to LDH to obtain Medicaid benefits for herself and her three children. LDH paid \$57,454 for monthly premiums to MCOs and \$19,065 directly to providers on behalf of A.B. and her children. The MCOs paid providers \$71,198 for covered health care services for A.B. and her children. During this period, A.B. failed to disclose all income to LDH. Had A.B. provided accurate information, she and her children may have been ineligible to receive Medicaid benefits. By providing incomplete information to LDH, A.B. may have violated state law.^{1,2,3,4,5}

^H Four a family of four, 217% of the FPG was \$4,386 from January 1, 2017 to February 28, 2017. For a family of four, 217% of the FPG was \$4,449 from March 1, 2017 to August 10, 2017. N.M. and A.B.'s household increased to five members on August 11, 2017. For a family of five, 217% of the FPG was \$5,205 from August 11, 2017 to December 31, 2017.

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, or 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

August 28, 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. Additionally, LDH will also be looking over the next year to research and implement additional fraud detection tools and/or uses of existing data feeds to address issues identified in the audit.

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:

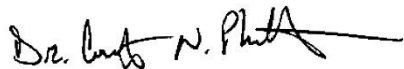
LDH should ensure that caseworkers fully document information used to make eligibility decisions.

Response:

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

You may contact Tara LeBlanc, Medicaid Deputy Director, at tara.leblanc@la.gov with any questions about this matter.

Sincerely,



Dr. Courtney N. Phillips