

LOUISIANA DEPARTMENT OF HEALTH
MEDICAID RECIPIENT REPORT NO. 4



INVESTIGATIVE AUDIT
ISSUED SEPTEMBER 3, 2020

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 3, 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 A.B. 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 for herself and her three children.

As a result, from January 2016 to December 2019, LDH paid \$59,878 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 \$1,433 in fee-for-service payments to providers for A.B. and her children.

The MCOs paid \$37,089 to providers for covered health care services for A.B. and her children.

Had A.B. provided complete and accurate income and household information to LDH, she and her children may have been found ineligible to receive Medicaid benefits from January 2016 to December 2019.

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 10th 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/ch
LDH MEDICAID ELIGIBILITY

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EXECUTIVE SUMMARY

Recipient Provided Incomplete and Inaccurate Information to Obtain Medicaid Benefits

Medicaid recipient A.B. provided incomplete and inaccurate information to the Louisiana Department of Health (LDH) in order to obtain Louisiana Medicaid (Medicaid) benefits for herself and her three children. LDH paid \$59,878 for monthly premiums to Managed Care Organizations (MCOs) and \$1,433 in fee for service payments directly to providers on behalf of A.B. and her children from January 2016 to December 2019. The MCOs paid providers \$37,089 for covered health care services for A.B. and her children. During this period, A.B. failed to disclose all household members and household income to LDH. Had she provided complete and accurate information, A.B. and her children may have been ineligible to receive Medicaid benefits. By providing incomplete and inaccurate 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 LDH, 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. A.B. was included on this list and selected for review by LLA because of the level of activity in her Medicaid case file (claims paid in excess of \$16,000). LLA initiated this investigative audit to determine if

^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.

A.B. provided LDH with complete and 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 Provided Incomplete and Inaccurate Information to Obtain Medicaid Benefits

Medicaid recipient A.B. provided incomplete and inaccurate information to the Louisiana Department of Health (LDH) in order to obtain Louisiana Medicaid (Medicaid) benefits for herself and her three children. LDH paid \$59,878 for monthly premiums to Managed Care Organizations (MCOs) and \$1,433 in fee for service payments directly to providers on behalf of A.B. and her children from January 2016 to December 2019. The MCOs paid providers \$37,089 for covered health care services for A.B. and her children. During this period, A.B. failed to disclose all household members and household income to LDH. Had she provided complete and accurate information, A.B. and her children may have been ineligible to receive Medicaid benefits. By providing incomplete and inaccurate 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 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 in her Medicaid case file (claims paid 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 and the bank records for her and her husband, N.M., from January 2016 to January 2020. During our review, we found that A.B. did not include N.M. as a household member and did not disclose N.M.'s wages from multiple employers to LDH. Had A.B. properly disclosed N.M. as a household member, his income would have increased her household income above the income limits for the Medicaid programs that A.B. and her children were enrolled in from July 2016 to December 2019.

Recipients' Medicaid History

LDH records show that A.B. initially applied for and began receiving Medicaid benefits in February 2009 while pregnant with her first child. A.B. appears to have reapplied for Medicaid in May 2013 while pregnant with her second child. According to her Medicaid case file, A.B. claimed she had no income or health insurance and that she had been separated from her spouse (N.M.) for two months. In August 2014, LDH reviewed A.B.'s case and determined that she and her children would continue to receive Medicaid coverage. LDH records show that an application was submitted for A.B.'s children on September 21, 2015, and that A.B. completed an application for herself, which indicated that she was pregnant with her third child, on September 29, 2015. According to these applications, A.B. had no income, would not file an income tax return, and would not be claimed as a dependent on someone else's tax return. Medicaid coverage for A.B. and her children was extended for another 12 months.

A.B.'s online application, submitted on May 24, 2016, again reflected she had no income and did not list N.M. as a household member. Based on this information, A.B.'s benefits were extended for another 12 months. A.B. and her children's benefits were renewed for an additional 12 months in October 2017 based on a renewal application dated October 11, 2017, which again indicated there was no household income. According to a renewal application dated August 8, 2018, A.B.'s household included herself and her three children. No income was disclosed, and the renewal application indicated that A.B. would not file a tax return, would not be claimed as a dependent on someone else's tax return, and that her children would be claimed as dependents on N.M.'s tax return. LDH extended A.B. and her children's Medicaid coverage for another 12 months.

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 requesting that she provide LDH with a copy of her 2017 income tax return and verification of wages earned by her and her spouse during 2018. Records show that A.B. provided (via fax) two third-party statements on February 26, 2019, stating that A.B. and her husband had been separated since 2016. As a result, A.B. and her children continued to receive Medicaid coverage.

Medicaid records show that LDH paid \$59,878 for monthly premiums to MCOs and \$1,433 in fee for service payments directly to providers on behalf of A.B. and her children from January 2016 to December 2019. During the same period, the MCOs paid providers \$37,089 for covered health care services for A.B. and her three children.

Recipient Failed to Disclose All Household Members and Income

LDH records show that A.B. did not include N.M. as a household member and failed to disclose N.M.'s income to LDH. During our audit, we found the following:

- According to the Parish Assessor, N.M. and A.B. are the owners of the property listed on A.B.'s Medicaid applications/renewal summaries;

- N.M. and A.B. obtained Louisiana driver's license/identification cards on April 10, 2017 and December 20, 2018, respectively. N.M.'s and A.B.'s driver's license/identification card both used the address listed on A.B.'s Medicaid applications/renewal summaries;
- According to Office of Motor Vehicles records, all vehicles in N.M.'s name are registered to the address listed on A.B.'s Medicaid applications/renewal summaries;
- According to the Parish Registrar of Voters, N.M. is registered to vote at the same address A.B. listed on her Medicaid applications/renewal summaries;
- N.M. and A.B. held a joint checking account during the entire period covered by our audit which used the address listed on A.B.'s Medicaid applications/renewal summaries. Account records show that most of N.M.'s wages earned from January 2016 to December 2019 were deposited into this account, and that all of the checks issued to N.M. by his employers included the address listed on A.B.'s Medicaid applications/renewal summaries;
- LDH identified A.B. as a Medicaid recipient with income in excess of \$100,000 during tax year 2017. Since A.B. claimed no income on her Medicaid applications (including her October 2017 application), this suggests A.B. filed a joint income tax return with a spouse who earned income in excess of \$100,000 during 2017;
- In June 2019, N.M.'s mother told us that her son (N.M.) has been married for approximately seven years and lives with his wife (A.B.); and
- Louisiana Workforce Commission (LWC) records show that N.M. filed a claim for unemployment benefits on April 10, 2020. The application submitted by N.M. listed the address included on A.B.'s Medicaid applications/renewal summaries.

Based on this information, it appears that N.M. and A.B. were married and living in the same household during the time A.B. and her children received Medicaid benefits. As such, A.B. was required by state law⁵ to include N.M. as a household member on her Medicaid applications. Had A.B. properly included N.M. on her Medicaid applications, LDH would have verified his income through the LWC database to determine eligibility for all household members.

In order to determine A.B.'s household income, we obtained A.B. and N.M.'s joint bank account records from January 2016 to January 2020. According to these records, N.M. received wages in excess of the income limits for the Medicaid programs that A.B. and her children were enrolled in from January 2016 to December 2019. For a family of five (husband, wife, and three dependents), the income limits ranged from \$3,365 per month from January 2016 to \$3,570 per month in December 2019.^C During this period, N.M.'s net wages averaged \$8,528 per month.

^C Medicaid income limits are determined by the Federal Poverty Guidelines (FPG). For a family of five, 142% of the FPG was \$3,362 per month from January 1, 2016 to February 28, 2016.

Conclusion

A.B. provided incomplete and inaccurate information to LDH to obtain Medicaid benefits for herself and her three children. LDH paid \$59,878 for monthly premiums to MCOs and \$1,433 in fee for service payments directly to providers on behalf of A.B. and her children from January 2016 to December 2019. The MCOs paid providers \$37,089 for covered health care services for A.B. and her children. During this period, A.B. failed to disclose all household members and household income to LDH. Had she provided complete and accurate information, A.B. and her children may have been ineligible to receive Medicaid benefits. By providing incomplete and inaccurate information to LDH, A.B. may have violated state law.^{1,2,3,4,5}

Rebuttal to A.B.'s Response to the Report

On August 18, 2020, A.B. provided LLA with her written response, which is attached to this report. Therein, she stated that she and her husband, N.M., have not lived together since 2016 and that N.M. was working remotely and living in a travel trailer. A.B. further stated that N.M. moved back home to Parish X after being laid off due to the Covid-19 pandemic. A.B. contends that she left the matrimonial domicile and filed for divorce upon N.M.'s return.

A review of the divorce petition (petition) A.B.'s attorney filed with the Parish Clerk of Court's Office does not support A.B.'s contention that she and N.M. have lived apart since 2016. To the contrary, the petition states that A.B. and N.M. physically separated on March 31, 2020 – not 2016 – and have lived apart continuously and without reconciliation since that time. The petition also states that A.B. and N.M. were married on July 2, 2011, in Parish X, Louisiana, and last resided together as husband and wife there. The petition is verified, which means the petitioner, A.B., swore that all of the facts and allegations contained in the petition were true and correct to the best of her knowledge, information, and belief.

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) 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;

For a family of five, 142% of the FPG was \$3,365 per month from March 1, 2016 to February 28, 2017.
For a family of five, 142% of the FPG was \$3,406 per month from March 1, 2017 to February 28, 2018.
For a family of five, 142% of the FPG was \$3,481 per month from March 1, 2018 to February 28, 2019.
For a family of five, 142% of the FPG was \$3,570 per month from March 1, 2019 to December 31, 2019.

- (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

John Bel Edwards
GOVERNOR



Dr. Courtney N. Phillips
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

VIA E-MAIL ONLY

August 19, 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:

LDH agrees with strengthening its processes for eligibility determinations to verify eligibility where self-attestation from the recipient is a factor. Medicaid's new eligibility and enrollment system strengthened the eligibility determination process by automating eligibility factor verification using 20 different external, electronic data sources. Starting in October 2019, federal tax information (FTI) began being utilized as an additional source available for eligibility factor verification through post-authorization review. It includes total household income.

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. It will continue to reinforce caseworker training on 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.

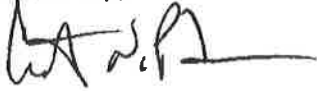
Mr. Daryl G. Purpera
Medicaid Eligibility - [REDACTED]
August 19, 2020
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Response:

LDH agrees with this recommendation. It will continue to reinforce caseworker training on agency policy requiring documentation of information used to make eligibility decisions and conduct supervisory reviews of caseworker actions to ensure compliance. Additionally, the new eligibility system automatically stores information on which eligibility decisions are based.

If you have any questions regarding this matter, Tara LeBlanc, Medicaid Deputy Director, serves as the lead on this matter and she can be reached by email at tara.leblanc@la.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "C. N. Phillips", with a long horizontal stroke extending to the right.

Dr. Courtney N. Phillips

APPENDIX B

A.B.'s Response

U

August 18, 2020

Mr. Darrell G. Purpera
ATTN: Roger Harris
Louisiana Legislative Office
P.O. Box 94397
Baton Rouge, Louisiana

Dear. Mr. Harris and Purpera:

I received a letter dated August 5, 2020 but received on August 12, 2020. I understand that the Legislative Auditor's Office has spoken to my soon to be ex-husband, [REDACTED]. Mr. [REDACTED] has confirmed that we have not lived together since 2016. Since 2016 my soon to be ex-husband, [REDACTED], has been working remotely and living in a travel trailer. Only when the Covid-19 pandemic hit the United States, did Mr. [REDACTED] return to [REDACTED]. Upon Mr. [REDACTED] return to [REDACTED], I left the former matrimonial domicile and filed for divorce.

On my application for Medicaid benefits, I did not lie or mislead anyone with respect to my income or lack thereof. My divorce remains pending in [REDACTED] and Mr. [REDACTED] and I have not reconciled.

Your report that documents that Mr. [REDACTED] filed a claim for unemployment benefits on April 10, 2020. Mr. [REDACTED] was laid off, related to the Covid-19 virus, which is what prompted him to move back home to [REDACTED]

I hope this answers any questions you may have with respect to this inquiry.

Yours truly,

[REDACTED]

[REDACTED]