LOUISIANA DEPARTMENT OF HEALTH MEDICAID RECIPIENT REPORT NO. 11



INVESTIGATIVE AUDIT ISSUED DECEMBER 10, 2020

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December 10, 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 recipients A.B. and his wife, C.D., failed to inform the Louisiana Department of Health (LDH) of changes in their household income.

As a result, from April 2017 to February 2019, LDH paid \$46,973 for monthly premiums on behalf of A.B., C.D., and their children to the managed care organizations (MCOs) overseeing the state's Medicaid program. The MCOs paid providers \$8,451 for covered health care services for the family during the same period.

Had A.B. and C.D. notified LDH of their household income change, they and their children may have been determined ineligible to receive Medicaid benefits between April 2017 and February 2019.

The procedures we performed primarily consisted of making inquiries and examining selected financial records and other documents, and were not 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 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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Recipients Failed To Notify LDH of Changes to Income

Medicaid recipients A.B. and C.D., husband and wife, failed to notify the Louisiana Department of Health (LDH) of changes to their household income. As a result, A.B., C.D., and their children continued to receive Medicaid coverage after their household income exceeded Medicaid program limits. LDH paid \$46,973 for monthly premiums to Managed Care Organizations (MCOs) on behalf of A.B., C.D., and their children, and the MCOs paid providers \$8,451 for covered health care services from April 2017 through February 2019. Had they informed LDH of changes to their household income, A.B., C.D., and their children may have been ineligible to receive Medicaid benefits from April 2017 through February 2019. By failing to notify LDH of changes to their household income, A.B. and C.D. may have violated state law.

Pursuant to 42 U.S.C. §1396a(a)(7) and 42 C.F.R. §431.305, names of Medicaid recipients are to be held confidential. These names are in our audit work papers, which are not subject to public review. Throughout the report, we have used alphabetic indicators in the place of recipients' names. Our work papers, which include actual names of recipients, will be available to law enforcement.

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. and C.D., husband and wife, were included on this list and selected for review by LLA because we determined that A.B. had income from self-employment that was not reported to LDH. LLA

^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.

initiated this investigative audit to determine if these recipients provided LDH with complete and accurate information to determine their 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.

Recipients Failed to Notify LDH of Changes to Income

Medicaid recipients A.B. and C.D., husband and wife, failed to notify the Louisiana Department of Health (LDH) of changes to their household income. As a result, A.B., C.D., and their children continued to receive Medicaid coverage after their household income exceeded Medicaid program limits. LDH paid \$46,973 for monthly premiums to Managed Care Organizations (MCOs) on behalf of A.B., C.D., and their children, and the MCOs paid providers \$8,451 for covered health care services from April 2017 through February 2019. Had they informed LDH of changes to their household income, A.B., C.D., and their children may have been ineligible to receive Medicaid benefits from April 2017 through February 2019. By failing to notify LDH of changes to their household income, A.B. and C.D. may have violated state law. ^{1,2,3}

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 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. and his spouse, C.D., were included on this list and selected for review by LLA because we determined that A.B. had income from self-employment that was not reported to LDH. LLA initiated this investigative audit to determine if A.B. and C.D. provided LDH with complete and accurate information to determine Medicaid eligibility for themselves and their children.

We reviewed A.B. and C.D.'s LDH electronic Medicaid case file and obtained their joint federal income tax returns (tax returns) for 2015, 2016, 2017, and 2018, as well as their business and personal bank account records for the period January 2016 through February 2019. During

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

our review, we found that A.B. began earning income from self-employment in excess of the Medicaid program limits in April 2017; however, neither A.B. nor C.D. notified LDH of the change in household income. Had A.B. and C.D. properly notified LDH of changes in A.B.'s self-employment income, LDH would have known the household income rose above the income limits for the Medicaid programs that A.B., C.D. and their children were enrolled in from April 2017 through February 2019.

Recipients' Medicaid History

According to their Medicaid case file, A.B., C.D., and their four children received Medicaid benefits throughout calendar year 2015. On January 27, 2016, a renewal application was submitted for all household members. According to the application, the household's monthly income was \$3,000, which consisted of A.B.'s wages from a seafood restaurant (\$1,500) and income from online advertising (\$1,500). LDH verified A.B.'s wages through the Louisiana Workforce Commission (LWC) database, and A.B. provided LDH with an IRS Form 1099-Misc showing that he earned \$24,366 in nonemployee compensation from an online advertising company during tax year 2015. Based on this information, LDH renewed the household's Medicaid coverage and issued two decision letters to C.D. (one letter for the adults and one for the children) indicating that each family member was eligible for Medicaid coverage. The decision letter issued to the adults indicated they must report any changes in gross earnings within 10 days, and that their countable earnings cannot be more than the program limits. The decision letter issued for the children included a reminder in bold font stating the applicants need to let their local Medicaid office know about changes in where they live or get mail, their phone number, income, and health insurance coverage.

Medicaid records show that LDH reviewed Medicaid coverage for all household members in December 2016. LDH verified A.B.'s wages (\$1,500 per month) from the seafood restaurant with LWC and the case file included a copy of A.B. and C.D.'s 2015 tax return. The tax return reflected \$18,000 in wages (\$1,500 per month) and \$2,261 in business income (less \$160 for the deductible portion of self-employment tax) for adjusted gross income of \$20,101 (\$1,675 per month). Because their household income was below the income limits, LDH renewed Medicaid coverage for all household members and issued another decision letter to C.D. on January 27, 2017, that included the same reminder on previous decision letters (applicants need to let their local Medicaid office know about changes in where they live or get mail, their phone number, income, and health insurance coverage). Medicaid records show that C.D. gave birth to her fifth child in February 2017, which increased the household size to seven members effective February 1, 2017.

On December 11, 2017, LDH issued a letter to C.D. which requested proof of earnings for the last 30 days to renew Medicaid coverage for the household. On January 15, 2018, LDH issued two closure letters to C.D. (one letter for the adults and one for the children) indicating that Medicaid coverage for all household members, excluding the newborn, was ending on January 31, 2018, because she did not provide the requested information to LDH. LDH's electronic case notes show that a case worker contacted the household and requested proof of income on January 17, 2018. According to the electronic case notes, one of the adults in the household agreed to provide a tax return and informed the case worker that "C.D. is not working,

but A.B. is working for the online advertising company and PT at Seafood Restaurant (14,000/yr)." LDH records show that a copy of A.B. and C.D.'s 2016 tax return was submitted the following day. This tax return reflected \$18,000 in wages (\$1,500 per month) and \$883 in business income (less \$63 for the deductible part of self-employment tax) for adjusted gross income of \$18,820 (\$1,568 per month). Based on the tax return provided, LDH renewed Medicaid coverage and issued two renewal letters to C.D. on January 19, 2018 (one for the adults and one for the children), that included the same reminder on previous letters (applicants need to let their local Medicaid office know about changes in where they live or get mail, their phone number, income, and health insurance coverage).

In December 2018, LDH started the renewal process for the household and sent C.D. a letter requesting that she provide proof of earnings for the last 90 days. Records show that LDH terminated the household's Medicaid coverage effective February 28, 2019, because C.D. did not provide the requested information to LDH.

Recipients Failed to Notify LDH of Income Changes

We reviewed LDH's wage verifications, the 2015 and 2016 tax returns that A.B. and C.D. provided to LDH and tax returns that A.B. provided to us for tax years 2017 and 2018. These records show that A.B. earned wages from a seafood restaurant during tax years 2015 through 2018, and that C.D. earned wages from a nail salon in 2018. The tax returns also show that A.B. reported income and/or losses from three businesses: online advertising, a Limited Liability Company (Business Entity No. 1), and another business that does not appear to have been registered with the Louisiana Secretary of State (Sos).^D According to these tax returns, A.B. and C.D. reported the following amounts for adjusted gross income for tax years 2017 and 2018:

- 2017 \$145,372 (\$12,114 per month)^E
- 2018 \$84,264 (\$7,022 per month)^F

In addition, we obtained A.B. and C.D.'s business and personal bank account records from January 2016 through February 2019. Deposit records from these bank accounts appear to support the amounts reported as adjusted gross income on their tax returns for tax years 2017 and 2018 and show that their household income began to exceed the Medicaid income limits in April 2017. Based on LDH's wage verifications and their bank records, we determined that A.B. and C.D.'s household earnings averaged \$12,384 per month from April 2017 through February 2019. A.B. and C.D.'s bank records also suggest that they had income in addition to the amounts

^D It appears online advertising payments were made to A.B. personally. The 2015 IRS Form 1099 MISC from the online advertising company was addressed to A.B. personally and income tax returns list no Employer ID Number (EIN) related to the business. According to SoS, Business Entity No. 1 was incorporated on March 25, 2015, and A.B. is listed as the registered agent and only officer. It does not appear that the third business exists as a Louisiana corporation; there is no entity by that name registered with SoS, and there is no EIN reflected in A.B.'s tax returns. ^E Medicaid income limits are determined by the Federal Poverty Guidelines (FPG). For a family of six, 147% of the FPG was \$3,992 per month from March 1, 2016 to February 28, 2017, and \$4,500 for a family of seven. For a family of seven, 147% of the FPG was \$4,550 per month from March 1, 2017 to February 28, 2018.

^F For a family of seven, 147% of the FPG was \$4,663 per month from March 1, 2018 to February 28, 2019.

reported on their tax returns. We found that A.B. and C.D. made cash deposits totaling \$130,752 to their personal bank accounts (average of \$5,685 per month) from April 2017 through February 2019. In addition, we obtained two Uniform Residential Loan Applications that A.B. completed on April 25, 2018 and May 29, 2018, respectively. A.B. completed the first application to purchase a home for \$720,000 and indicated that his income was \$11,648 per month. This application appears to have been denied for "insufficient income for the amount of credit requested." A.B. completed the second application for a different home with a purchase price of \$583,000 and indicated that his income was \$8,719 per month. A.B. purchased the home on August 6, 2018, and recorded a mortgage in the amount of \$524,700 on August 8, 2018.

Based on the amounts reported on their tax returns for 2017 and 2018, deposits to their bank accounts, and the Uniform Residential Loan Applications that A.B. completed in 2018, it appears that A.B. and C.D.'s household income exceeded the income limits for the Medicaid programs in which A.B., C.D., and their children were enrolled. For a family of seven (husband, wife, and five dependents), the income limits for these programs ranged from \$4,550 per month to \$4,663 per month from April 2017 through February 2019. Although A.B. and C.D.'s income tax returns, bank records, and loan applications show that they consistently earned income in excess of the Medicaid income limits, neither A.B. nor C.D. appear to have notified LDH of the income.

Further, it appears that either A.B. or C.D. provided LDH with outdated and misleading information regarding their income. For example, it appears that either A.B. or C.D. provided LDH with a copy of their 2016 tax return on January 18, 2018. Although the tax return indicated that A.B. and C.D.'s adjusted gross income was \$18,820 (\$1,568 per month) for all of tax year 2016, funds from the online advertising company totaling \$14,293 were directly deposited to A.B. and C.D.'s personal bank account during the prior month (December 2017). Four days later (January 22, 2018), funds from the online advertising company totaling \$19,410 were directly deposited to A.B. and C.D.'s personal bank account.

We spoke with A.B. on October 3, 2019. A.B. acknowledged that neither he nor wife notified LDH of the changes to their household income. A.B. told us that they (he and his wife) did not know to notify LDH about the changes in their household.

Conclusion

A.B. and his spouse, C.D., failed to notify LDH of changes to their household income. As a result, A.B., C.D., and their children continued to receive Medicaid coverage after their household income exceeded Medicaid program limits. LDH paid \$46,973 for monthly premiums to MCOs, and the MCOs paid \$8,451 to service providers on behalf of A.B., C.D., and their children from April 2017 to February 2019. Had they informed LDH of changes to their household income, A.B., C.D., and their children may have been ineligible to receive Medicaid benefits from April 2017 to February 2019. By failing to notify LDH of changes to their household income, A.B. and C.D. may have violated state law.^{1,2,3}

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.

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. 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



Louisiana Department of Health Office of the Secretary

VIA E-MAIL ONLY

November 6, 2020

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

Re: Medicaid Eligibility -

Dear Mr. Purpera:

Thank you for the opportunity to respond to the findings of your Medicaid Audit Unit report on the Medicaid eligibility of **Sector Constitution**. 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 Mr. Daryl G. Purpera, CPA, CFE Medicaid Eligibility – November 6, 2020 Page 2

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, selfattestation is accepted due to limited data sources that provide sufficient, real time information to arrive at an eligibility decision. Where possible, LDH will continue to pursue interfaces and data sources to aid in strengthening its eligibility determination process.

Recommendation 2:

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

Response:

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

Recommendation 3:

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

Response:

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

Recommendation 4:

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

Response:

LDH agrees with this recommendation and will continue to ensure caseworkers comply with state and federal regulation. Additionally, the new eligibility system automatically stores information on which eligibility decisions are based. Mr. Daryl G. Purpera, CPA, CFE Medicaid Eligibility -November 6, 2020 Page 3

Ms. Tara LeBlanc, Interim Medicaid Executive Director, serves as the lead on this matter. If you have any questions or concerns, please contact Ms. Leblanc by email at tara.leblanc@ia.gov or by telephone at (225)219-7810.

Sincerely,

Dr. Courtney N. Phillips

APPENDIX B

A.B. and C.D.'s Response

To whom it may concern,

I'm writing to respond to the investigative audit report on LDH - Medicaid Eligibility - for **Example 1** Thank you for giving us the opportunity to respond to the report. After reviewing the report, it is apparent that my family became ineligible for health insurance that was issued by the LDH. I would like the opportunity to set up a payment plan or find out what are the options for repayment of the amount on my family behalf.

I would like to Thanks LDH for providing health insurance to our family during the time needed most through out the process. Through out the year 2017, fortunately our income had increased, though I'm unaware that I have to inform LDH about the changes.

I recalled talking on the phone with a case worker from LDH on 1/17/18 for Medicaid renewal, I Explained to LDH case worker about our current situation and that our income had changed/increased. The case worker asked about current wage & requested 2017 tax return which was unavailable at the time. We don't file 2017 tax return until around April-2018. So she requested a 2016 tax return for reviewed, I provided current-wages working from a restaurant, told her my wife wasn't working at the time, and submitted the 2016 tax return as requested via email. Please see attachment.

I want to EXPRESS my concerned that I did not intend to send in outdated tax return or mislead LDH in anyway as stated in the report. I only did as requested. Phone records from LDH can clarify this matter as well as email attachment.

Lastly, I want to have a chance to fix my unaware mistake, having 5 kids really keeps us busy along with their school works and my daytime jobs. Sometime we unintentionally oversee things. I would like the opportunity pay back the money to LDH for the periods/amount stated on the report in the form of a payment plan or available option for repayment. Thank you for this opportunity and thank you for your time.

Please feel free to contact me directly at

or send any correspondence to my home address.

Thanks,

