

LOUISIANA DEPARTMENT OF HEALTH
MEDICAID RECIPIENT REPORT NO. 5



INVESTIGATIVE AUDIT
ISSUED SEPTEMBER 9, 2020

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

DIRECTOR OF INVESTIGATIVE AUDIT
ROGER W. HARRIS, J.D., CCEP, CFI

MANAGER OF INVESTIGATIVE AUDIT
GREGORY CLAPINSKI, CPA, CFE

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 9, 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 \$58,824 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 \$1,603 directly for Medicaid services.

The MCOs paid \$62,513 to providers on behalf of A.B. and her children for covered health care services.

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) to obtain Louisiana Medicaid (Medicaid) benefits for herself and her three children. LDH paid \$58,824 for monthly premiums to Managed Care Organizations (MCOs) and \$1,603 directly to providers on behalf of A.B. and her children from January 2016 to December 2019. The MCOs paid providers \$62,513 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 to LDH, 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) to obtain Louisiana Medicaid (Medicaid) benefits for herself and her three children. LDH paid \$58,824 for monthly premiums to Managed Care Organizations (MCOs) and \$1,603 directly to providers on behalf of A.B. and her children from January 2016 to December 2019. The MCOs paid providers \$62,513 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 to LDH, 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 her husband's, N.M.'s, bank records from January 2016 to January 2020. During our review, we found A.B. did not include N.M. as a household member and did not disclose his income 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 January 2016 to December 2019.

Recipients' Medicaid History

LDH records show A.B. applied for Medicaid benefits for herself and her two children in November 2015 while pregnant with her third child. According to her application, A.B. claimed no household income, and that she would not file an income tax return nor be claimed as a dependent on someone else's income tax return. Based on her application, A.B. and her children were deemed eligible for Medicaid coverage. After birth, A.B.'s third child was eligible for coverage beginning June 1, 2016. Medicaid coverage for A.B.'s first two children was automatically renewed through October 31, 2017, and A.B.'s Medicaid coverage was renewed through August 31, 2017. These renewals appear to have been based on LDH's review of Louisiana Workforce Commission (LWC) records which showed that A.B. -- the only adult listed on her original application in November 2015 -- had no income.

According to LDH records, A.B. completed a renewal application for her own Medicaid coverage on June 27, 2017 (for the 12-month period beginning September 1, 2017). According to this application, A.B.'s household only included herself and her three children. A.B. again claimed no household income, that she would not file an income tax return, and that she would not be claimed as dependent on someone else's income tax return. Based on this information, A.B.'s Medicaid coverage was extended through August 2018. In August 2018, LDH reviewed LWC records and found that no wages had been reported for A.B.. As a result, coverage for A.B. and her three children was renewed through August 2019.

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. According to her electronic case file, A.B. contacted LDH on February 20, 2019, and informed a caseworker that although she and her spouse (N.M.) were living together, they separated at the end of 2015 and were not romantically involved. A.B. informed the caseworker that she was included on her husband's income tax return, but refused to provide any employment or income information regarding her husband. A.B.'s coverage was terminated as of March 1, 2019; however, her children continued to receive Medicaid coverage through December 2019.

Medicaid records show that LDH paid MCOs \$58,824 for monthly premiums and \$1,603 directly to providers on A.B. and her children's behalf from January 2016 to December 2019. The MCOs paid \$62,513 to providers for covered health care services for A.B. and her children.

Recipient Failed to Disclose All Household Members and Income

LDH records show 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. was the primary owner of the property listed on A.B.'s Medicaid applications/renewal summaries as her home address;

- N.M. and A.B. obtained Louisiana driver's licenses from the Office of Motor Vehicles on April 14, 2016 and May 19, 2016, respectively. N.M.'s and A.B.'s driver's licenses included 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 were registered to the address listed on A.B.'s Medicaid applications/ renewal summaries;
- N.M. is the registered agent and an officer (manager) of a Louisiana limited liability company (Business Entity No. 1), that registered with the Louisiana Secretary of State (SoS) on August 27, 2010;
- Records obtained from the Parish Sales Tax Commission show that Business Entity No. 1 operates a local restaurant;
- SoS records show that Business Entity No.1's corporate address is the same address used by A.B. on her Medicaid applications/renewal summaries; and
- According to SoS records, A.B. was added as a registered agent of Business Entity No. 1 on March 4, 2020.

Based on this information, as well as A.B.'s statements to LDH in February 2019 (see previous section on page 6), it appears that N.M. and A.B. were married and lived in the same household during the period in which 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 N.M.'s business and personal bank account records from January 2016 to January 2020. These records show that N.M. received wages from Business Entity No. 1 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 for these programs 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 \$4,419 per month.

N.M.'s bank records also suggest that he had income in addition to the wages he received from Business Entity No. 1. We found that N.M. made cash deposits totaling \$83,350 to his personal bank accounts (average of \$1,736 per month) from January 2016 to December 2019. In

^C Medicaid income limits are determined by the Federal Poverty Guidelines (FPG). For a family of five, 142% of the FPG was \$3,365 per month from January 1, 2016 to February 28, 2016.

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.

addition, N.M.'s bank records show that a consumer loan application was completed for N.M. (via telephone) to purchase a recreational vehicle on May 31, 2017. According to the loan application, N.M. was married with a monthly income of \$8,000.

We attempted to contact A.B. at her residence on several occasions, but no one came to door. We located N.M. at his restaurant on July 23, 2019. N.M. informed us that his wife had a lawyer regarding her Medicaid benefits and was instructed not to speak with us. We attempted to ask N.M. about his wife's Medicaid benefits, but he refused to answer any questions.

Conclusion

A.B. provided incomplete and inaccurate information to LDH to obtain Medicaid benefits for herself and her three children. LDH paid MCOs \$58,824 for monthly premiums and \$1,603 directly to providers on A.B. and her children's behalf from January 2016 to December 2019. The MCOs made payments totaling \$62,513 to providers 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 to LDH, 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}

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, etc.) 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

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.

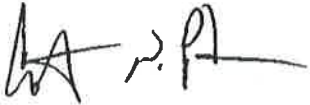
Response:

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.

Mr. Daryl G. Purpera
Medicaid Eligibility – [REDACTED]
August 19, 2020
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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 "Dr. Phillips", with a stylized initial "C" and a long horizontal stroke extending to the right.

Dr. Courtney N. Phillips