

DEPARTMENT OF HEALTH AND HOSPITALS
COMMUNITY-BASED PROGRAMS



COMPLIANCE AUDIT
ISSUED APRIL 18, 2012

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

April 18, 2012

MR. BRUCE D. GREENSTEIN, SECRETARY
DEPARTMENT OF HEALTH AND HOSPITALS
STATE OF LOUISIANA
Baton Rouge, Louisiana

We have audited certain transactions of the Department of Health and Hospitals. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

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 District Attorney for the Nineteenth Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

KK/ch

DHH-CBP 2012

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EXECUTIVE SUMMARY

Hours Claimed But Not Worked

Six of the 25 direct care workers we reviewed admitted to submitting time sheets to service providers that included hours they did not work.

- Three direct care workers who provided care in homes that had one recipient admitted to submitting time sheets to more than one service provider which included hours they did not work. Because there is no record of hours not worked and because the individuals could not provide such, we cannot determine the amount Medicaid was billed for hours not worked. However, these hours were included in billings to Medicaid during 2010 totaling \$63,403 for these three workers. Billing Medicaid for hours not worked may violate state law.¹
- Three direct care workers who provided care in homes that had two recipients admitted to submitting time sheets to more than one service provider which included hours they did not work. Because there is no record of hours not worked and because the individuals could not provide such, we cannot determine the amount Medicaid was billed for hours not worked. However, these hours were included in billings to Medicaid during 2010 totaling \$58,164 for these three workers. Billing Medicaid for hours not worked may violate state law.¹

Actual Work Hours Not Recorded on Time Sheets

Eight of the 25 direct care workers stated they did not record their actual work hours on their time sheets, but instead recorded the work schedule in the plan of care for the care recipients. Because there is no record of actual hours worked by these eight workers, we cannot determine if the amount Medicaid was billed was correct. We determined that in 2010, Medicaid was billed \$132,826 for these eight workers.

Data Entry Errors by Service Providers

Time entered on time sheets for 11 of the 25 direct care workers did not match time entered in the Louisiana Services Tracking System (LAST) by their service provider. Included in these 11 were two instances where time was entered for current employees under a former employee's name.

Invalid Social Security Numbers and No Edit Checks in LAST

Service providers recorded invalid social security numbers for direct care workers (e.g., "9999" or "1234") in LAST and there were no edit checks performed by DHH to detect the errors.

BACKGROUND AND METHODOLOGY

This compliance audit of the Louisiana Department of Health and Hospitals (DHH) was conducted in response to a previous performance audit report (issued September 14, 2011) that found potential improper Medicaid payments to direct care workers in home- and community-based programs [Long-Term Personal Care Services program (LT-PCS), Elderly and Disabled Adult waiver (EDA), and New Opportunities Waiver (NOW)] that provide services to the elderly and/or disabled at their residence.

The performance audit found that for the 2010 calendar year, 1,563 direct care workers claimed/received from \$700,000 to \$1.3 million in potentially improper Medicaid payments as a result of reporting worked hours that overlapped between different providers on the same day.

The focus of this compliance audit was limited to reviewing Medicaid payments involving care recipients that had family members serving as their direct care workers while simultaneously employed by more than one service provider. The service providers are private agencies that employ health care workers to provide the direct care to the recipient.

Service providers input their direct care workers' hours in a state database, the Louisiana Services Tracking System (LAST), for review and approval by DHH. Once approved in the LAST, service providers electronically submit these worker hours to Medicaid to receive reimbursement.

According to 2010 data in the LAST, 32 direct care workers' (who provided services to family members) time sheets overlapped hours between different service providers on the same day. We were unable to locate seven of the 32 direct care workers; however, the overlapping hours of the remaining 25 workers are discussed in the findings within this report. The procedures performed during this audit included:

- (1) interviewing direct care workers;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records of DHH;
- (4) gathering documents from external parties; and
- (5) reviewing applicable state laws and regulations.

FINDINGS AND RECOMMENDATIONS

Hours Claimed But Not Worked

Six of the 25 direct care workers we reviewed admitted to submitting time sheets to service providers that included hours they did not work.

State law¹ provides, in part, that Medicaid fraud is the act of any person who knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise. Since the direct care workers admitted to submitting time sheets for hours they did not work, they may have violated state law.¹

Because the direct care workers were employed by more than one service provider, it is unlikely a service provider would know if time sheets included hours that were also claimed with another provider (e.g., overlapping hours). Direct care workers who submit overlapping hours to different providers could be unlawfully enriching themselves with Medicaid dollars. (Medicaid is being double billed for the same hours of service.)

One Care Recipient in a Home:

- **Three direct care workers who provided care in homes that had one recipient admitted to submitting time sheets to more than one service provider which included hours they did not work. Because there is no record of hours not worked and because the individuals could not provide such, we cannot determine the amount Medicaid was billed for hours not worked. However, these hours were included in billings to Medicaid during 2010 totaling \$63,403 for these three workers. Billing Medicaid for hours not worked may violate state law.¹**

For example, a direct care worker admitted she would routinely leave a recipient's home early, but recorded the full work day on her time sheet. Due to the direct care workers claiming hours they did not work, the service providers effectively submitted false information on Medicaid claims submitted to DHH. However, since each of the workers was employed by more than one service provider at the same time, the providers appear to have unknowingly billed Medicaid for services not rendered.

¹ **Louisiana Revised Statute (R.S.) 14 §70.1, Medicaid Fraud** A. The crime of Medicaid fraud is the act of any person, who, with intent to defraud the state through any medical assistance program created under the federal Social Security Act and administered by the Department of Health and Hospitals: (1) Presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise; or (2) Knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise; or (3) Knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise. B. Whoever commits the crime of Medicaid fraud shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than twenty thousand dollars, or both.

The three direct care workers stated they recorded hours they did not work in order to get additional money that they were not entitled to receive. In one instance, a worker stated that upon completing the required services in less time than prescribed by the plan of care, she took the recipient with her to her next client's home until her shift was over. During this time, the worker recorded hours on her time sheets as if she had worked simultaneously for both recipients, which according to her statement, she did not. This resulted in an overpayment for hours not worked. In addition, program policy² states that all services must be provided in the recipient's home, unless otherwise documented in the recipient's plan of care; however, the recipient's plan of care did not indicate that they were to be brought to another recipient's home.

Two Care Recipients in the Same Home:

- **Three direct care workers who provided care in homes that had two recipients admitted to submitting time sheets to more than one service provider which included hours they did not work. Because there is no record of hours not worked and because the individuals could not provide such, we cannot determine the amount Medicaid was billed for hours not worked. However, these hours were included in billings to Medicaid during 2010 totaling \$58,164 for these three workers. Billing Medicaid for hours not worked may violate state law.¹**

Program policy³ allows service providers to service multiple clients living in the same household; however, the policy states that the timeframe for these shared services shall be divided equally on the recipients' plans of care. Further, a review of the recipients' plans of care did not indicate that their services were to be shared, which resulted in the workers being paid for hours they were not entitled to receive, which may violate state law.¹ For example, one direct care worker worked at a residence with two clients for 4 hours and 15 minutes a day, but claimed a total of 8 hours, which resulted in an overpayment of 3 hours and 45 minutes.

These workers stated that overlapping hours occurred because both recipients lived at the same residence and were serviced together. The care workers did not consider their time as overlapping because they serviced both recipients together and did not record any time that they did not work. However, as in the example given above, the worker was there for only 4 hours and 15 minutes but claimed 8 hours. If one is there only 4 hours and 15 minutes, one could not have worked 8 hours.

² **DHH Personal Care Services Provider Manual, Issued November 1, 2009**, states, in part, "All services must be provided in the recipient's home except when certain IADL are normally performed outside of the home, e.g., grocery shopping or accompanying the recipient to a medical appointment."

³ **DHH Personal Care Services Provider Manual, Issued November 1, 2009**, states, in part, "Different providers who provide services to multiple recipients in the same household must bill for their respective client based on the respective Plans of Care. The timeframes for shared IADL for the recipients will be divided equally on the respective Plans of Care unless one of the recipients requires a special diet as verified by a physician statement. Shared housekeeping activities will also be divided equally between recipients on the respective Plans of Care."

Actual Work Hours Not Recorded on Time Sheets

Eight of the 25 direct care workers stated they did not record their actual work hours on their time sheets, but instead recorded the work schedule in the plan of care for the care recipients. Because there is no record of actual hours worked by these eight workers, we cannot determine if the amount Medicaid was billed was correct. We determined that in 2010, Medicaid was billed \$132,826 for these eight workers.

The direct care workers stated that changes were made to their work schedule; however, they continued to record their “old” work hours on their time sheets. All eight direct care workers stated that although they knew they did not record the correct hours they worked, they claimed to have worked the total number of hours recorded on their time sheets. For example, one care worker stated she recorded work hours on her time sheet from 4:00 p.m. to 6:00 p.m., but claimed she actually worked 12:00 p.m. to 2:00 p.m.

These workers were unable to provide documentation of the actual hours they worked to demonstrate they were entitled to receive payment. If the direct workers did not work the hours they claimed, they may have violated state law.¹

Data Entry Errors by Service Providers

Certain service providers made the following data entry errors with respect to 11 of the 25 direct care workers:

- Time Sheets Do Not Match LAST

Some service providers used the schedule in the plan of care to enter worker hours to the LAST system instead of using the actual hours worked. This error caused 11 direct care workers time to appear to overlap with services provided to different recipients. Although the actual work hours were not entered into LAST correctly, the total number of hours on the time sheets matches the total number of hours recorded in LAST.

- Submitting Time for Former Employees

Of the 11 direct care workers whose time sheets did not match LAST, we determined that two current direct care workers’ hours were mistakenly entered in LAST by service providers under a former employee’s name. This occurred because the former employee was not properly closed out in LAST by the service provider and had the same initials as the current employee. Once an employee resigns, service providers must enter a termination date in LAST to close the employee in the system.

Invalid Social Security Numbers and No Edit Checks in LAST

Service providers recorded invalid social security numbers (e.g., “9999” or “1234”) in LAST and there were no edit checks performed by DHH to detect the errors.

The LAST system has the capability to perform edit checks to prevent direct care workers from claiming overlapping hours between service providers. To use this feature, the system requires service providers to enter accurate identity information on direct care workers, such as the last four digits of their social security numbers and dates of birth.

Recommendations:

We recommend DHH perform edit checks before authorizing payments and require service providers to:

- (1) enter accurate social security numbers and dates of birth in the LAST system for their employees;
- (2) enter their employees’ time into LAST as documented on the time sheets; and
- (3) verify that termination dates are entered for resigning employees on their last day of employment.

APPENDIX A

Management's Response



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

April 12, 2012

Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

RE: Compliance Audit
March 28, 2012

Dear Mr. Purpera:

DHH acknowledges receipt of your draft compliance audit report dated March 28, 2012, and we appreciate the opportunity to respond afforded by your office. It is our understanding that this compliance audit was conducted in response to a previous performance audit report, issued September 14, 2011, that found potential improper Medicaid payments to direct care workers in home and community based programs. Specifically, the programs involved were Long-Term Personal Care Services Program (LT-PCS), the Elderly and Disabled Adult waiver (EDA), and the New Opportunities Waiver (NOW). The focus of this audit was limited to reviewing Medicaid payments involving care delivered to recipients that had family members serving as their direct care workers while simultaneously employed by more than one service provider.

As stated in your report, service providers input their direct care workers' hours into the Louisiana Services Tracking System (LAST) for review and approval by DHH's contractor. After approval is received, the providers may then electronically submit claims based on hours of care delivered in order to receive Medicaid reimbursement. It is our understanding that, according to 2010 LAST data, your office found evidence that indicates 32 direct care workers' time sheets had overlapping hours between different service providers on the same day. In essence, hours on the time sheets indicated that the worker may have been in two separate places at the same time or working for two providers at the same time. Your report focuses on 25 of the workers since 7 could not be located. DHH will address and comment on the findings and recommendations in turn below.

The first main problem area involved "hours claimed but not worked" and was segregated into situations involving one care recipient in a home and two care recipients in the same home. In the situation involving one care recipient in a home, your findings indicate that three direct care workers admitted to submitting time sheets to more than one service provider which included hours they did not work. In such a situation, it is apparent, if Medicaid was billed, that DHH would have made payments not due. Thus, DHH, via its Program Integrity Section, will have active cases opened in order to fully recover any Medicaid dollars due back to DHH. DHH will also interface with the Attorney General's Medicaid Fraud Control Unit (MFCU) and send a referral which will hopefully lead to the arrest of the offending parties. DHH is entrusted with maintaining the fiscal and programmatic integrity of the

Medicaid program and takes such actions extremely seriously. In the situation involving two care recipients in the same home, your investigation similarly revealed that three direct care workers admitted to submitting timesheets to more than one service provider which included hours they did not work. Again, DHH will open active cases to recover any funds it may be due and will refer the individuals to MFCU for potential criminal prosecution. DHH program offices will also investigate the providers and recipients involved to ensure they were not part of the system breakdown. If our investigation reveals provider or recipient wrongdoing, DHH will utilize all tools at its disposal against the provider and recipient if culpable.

The second main problem area involved "actual work hours not recorded on time sheets." Your report indicates that 8 of the 25 direct care workers admitted they did not record their actual work hours on their timesheets. In lieu thereof, the workers stated they recorded the work schedule contained in the plan of care of the respective recipient. As a result of this information, DHH will open up cases related to these incidents to determine if the hours that were billed were in fact worked. If the service provider cannot provide verification and documentation showing that the correct hours were worked and billed, DHH will seek recovery of these funds. DHH will also refer this matter to MFCU in order to determine if possible criminal conduct existed as a result of these actions. As in the previous matter, DHH will also look into any conduct of the respective recipients and service providers that may have led to or facilitated this activity.

The third major area of concern involved "data entry errors by service providers" related to 11 of the 25 direct service workers. The first data error was caused by service providers entering working hours from the plans of care instead of actual hours worked. This error led to the appearance of overlapping hours. The second data entry error dealt with submitting time into LAST for former employees. While these errors may not have led to any overpayments by the Medicaid program, DHH will still provide provider education to help ensure this conduct will not continue. The appearance of overlap where none actually exists may lead to commitment of valuable DHH resources where they are not truly needed. Also, it is imperative that providers properly "close out" a former employee from LAST in order to lessen the possibilities of billing error or outright fraudulent conduct. Thus, DHH is committed to remedying this situation.

The final area of concern related to "invalid social security numbers and no edit checks in LAST." DHH has the system capability to run "edit checks" in this area and it is dependent on proper identification of direct care workers. One of the main ways to identify someone is through entry of a valid, proper social security number. DHH will provide provider education to ensure that proper social security numbers of direct care workers are entered in order to efficiently use this "edit check" capability.

As a result of your audit, you made the recommendation that DHH perform edit checks before authorizing payments and require service providers to:

- (1) enter accurate social security numbers and dates of birth in the LAST system for their employees;
- (2) enter their employees' time into LAST as documented on the timesheet; and
- (3) verify that termination dates are entered for resigning employees on their last day of employment.

Mr. Daryl G. Purpera

April 12, 2012


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DHH concurs with your recommendations and will take all steps necessary to implement them into the respective programs. It is my understanding that providers have already been notified that they are to enter accurate social security numbers. We will also inform them that date of birth should be supplied. As we migrate to a new system and new contractor, DHH will give extensive thought to automatically requiring a complete unduplicated social security number as a required field. As to the second recommendation, DHH will be implementing an electronic visit verification and billing system that will replace the LAST system and should address this type of error. In addition to improving accuracy and reducing billing error, EVV systems have been shown to significantly deter and prevent fraudulent billing.

DHH does have one general observation about the audit. In our meeting it was indicated that the information on which workers were family members came from the LAST system and/or SRI's database. However, SRI indicates LAST does not capture information on which workers are family members or on employee addresses. Their recollection was that they were asked for specific information on certain services, persons and agencies. We would also note that the report does not specifically define "family member" and that there are difference definitions for what constitutes a "family member" in different programs. Given that we are unable to determine how "family member" workers were identified and the small number of workers identified as having submitted timesheets for hours not worked, , we would caution against extrapolating from these findings any estimates of additional improper payments or any general conclusions about family members as workers.

Again, DHH appreciates the work of the Legislative Auditor and also appreciates the opportunity to respond. As we continue to progress with our mission to ensure the programmatic and fiscal integrity of the Medicaid program, as well as other DHH programs, we look forward to continuing our relationship with your office.

With kindest regards, I remain,



Stephen Russo
Executive Counsel