

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members
FROM: Sarah Carlson, Performance Auditor
CC: Richard Opper, Director, Department of Public Health and Human Services
Mary Dalton, Manager, Medicaid & Health Services Branch
Becky Schlauch, Audit Liaison and Administrator, Business and Financial Services Division
Duane Preshinger, Administrator, Health Resources Division
Dan Peterson, Chief, Allied Health Services Bureau
DATE: November, 2014
RE: Performance Audit Follow-Up (14SP-20) Detection and Resolution of Suspected Medicaid Recipient Prescription Fraud and Abuse (Original 12P-12)
Attachments: Original Performance Audit Summary

Introduction

The Detection and Resolution of Suspected Medicaid Recipient Prescription Drug Fraud (12P-12) performance audit report was issued to the Legislative Audit Committee in May 2013. The audit included eight recommendations to the Department of Public Health and Human Services (department). In November 2014, we conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our work.

Overview

In fiscal years 2008-2012, Medicaid in Montana provided coverage for an increasing number of prescriptions, and the program's expenditures increased 17 percent to more than \$75 million annually. Initial audit work determined controls related to the detection and resolution of suspected Medicaid recipient prescription drug fraud and abuse could be improved. Eight recommendations were made to the Department of Public Health and Human Services related to complying with federal regulations and developing a formal process of detecting, identifying, and resolving suspected cases of recipient prescription fraud and abuse. Follow-up work determined seven of the recommendations have been implemented, and one is being implemented. Results of the implemented recommendations include the development of a Fraud Log into which all potential recipient prescription-related fraud and abuse cases are entered and a three-person panel of department Medicaid and prescription services experts, review the cases and determine the appropriate next step for each. The department has made progress on the recommendation being implemented by hiring a program analyst to identify trends and anomalies that may indicate potential cases of fraud or abuse.

Background

While the extent of healthcare fraud is unknown, it is estimated to be billions of dollars nationwide each year. In fiscal years 2008-2012, Medicaid in Montana provided coverage for an increasing number of

prescriptions, and the program's expenditures increased 17 percent to more than \$75 million annually. Initial audit work found weaknesses in the department controls related to prescription-related fraud and abuse by Medicaid recipients. There were deficiencies in the processes used to identify cases of potential prescription-related fraud and abuse, no formal process for tracking potential cases, a limited process for investigating potential cases, and no formal process for referring cases to law enforcement. Additionally, weaknesses were identified in how the department internally tracks recipients identified as having inappropriate or excessive use of prescription services.

Audit Follow-up Results

The following sections summarize the implementation status of each recommendation. Follow-up work included interviewing staff, assessing changes made to the Medicaid Fraud Hotline, reviewing the new log and procedures, and reviewing new language in contracts designed to formalize fraud and abuse reporting to the department.

RECOMMENDATION #1

We recommend the Department of Public Health and Human Services make improvements to its data analysis process by documenting and compiling trends and anomalies which may indicate potential prescription-related fraud or abuse.

Implementation Status – Being Implemented

The department has hired a program analyst for the division to, among other things; specifically conduct more analysis of Medicaid prescription services in order to document and compile trends and anomalies that may indicate potential prescription-related fraud or abuse. However, because of the analyst's hire date (July 2014) and workload, this work continues in the design stage, and places the status as "being implemented." The analysis of prescription services for possible fraud or abuse is scheduled to begin in February 2015; the department plans to add cases identified through this process to the new Fraud Log.

RECOMMENDATION #2

We recommend the Department of Public Health and Human Services increase effectiveness of the Medicaid recipient fraud hotline and ensure:

- A. The hotline is appropriately advertised to potential users.**
- B. Staff administering the hotline are trained to identify potential fraud and abuse.**
- C. Call information is effectively recorded and compiled.**
- D. Issues identified through hotline reports are resolved appropriately, based on state and federal regulations.**

Implementation Status – Implemented

The Medicaid recipient fraud hotline is advertised on the main "Contact Us" department webpage as the number to call to report Medicaid fraud, and the department has reassigned the administration of this hotline to its Quality Assurance Division's (QAD's) Program Integrity Bureau, where the staff have experience identifying fraud and abuse as that is the main function of the Bureau. Information regarding prescription-related potential fraud and abuse received by QAD staff is communicated to the Allied Services Bureau Chief, who sends the information to the pharmacy program officer. The program officer enters the information regarding the case into the Fraud Log, and it is reviewed by a three-person panel of Department Medicaid and prescription services experts, called the Pharmacy Team. The Team determines the appropriate next step for each case, which is also documented in the Fraud Log. Since the Fraud Log was implemented in April 2013, 134 individuals have been entered, and one case was identified through this hotline process, and reviewed by the Pharmacy Team.

In addition, the Department of Justice (DOJ) Medicaid Fraud Control Unit (MFCU) maintains a Medicaid Provider Fraud Hotline. MFCU staff are also experienced in identifying fraud and abuse because the main function of the Unit is investigating fraud and abuse of Medicaid providers such as doctors and dentists. MFCU sends information to the department regarding prescription-related potential fraud and abuse by recipients. Four cases in the log have come from this source. All have been reviewed by the Pharmacy Team and one has been referred to the DOJ Narcotics Bureau.

RECOMMENDATION #3

We recommend the Department of Public Health and Human Services comply with federal regulations and conduct preliminary and full investigations of cases of potential recipient prescription fraud or abuse.

Implementation Status – Implemented

The department has developed and implemented procedures to comply with federal regulations related to the investigation of potential Medicaid fraud or abuse. The procedures include definitions of prescription-related fraud and abuse, information requirements for each case in the Fraud Log, and details regarding referral processes. The procedures also require all potential prescription-related fraud and abuse cases be entered into the log. Another requirement is that each month the Pharmacy Team conducts a review of new potential fraud and abuse cases in the log. The deliberations and decisions made at these monthly reviews, called adjudication meetings, are added to the log and, if the team decides it is necessary, further steps are taken related to the case. These next steps range from referral to the Narcotics Bureau, to continue monitoring, to closing the case. When a case is closed, it remains in the log and any new incoming potential cases are compared to closed cases. During the reviews, the department has multiple resources from which to gather information, including the Department of Labor and Industry, Montana Prescription Drug Registry, the Pharmacy Point of Sale System and the department's Drug Utilization Review Contractor case management notes.

RECOMMENDATION #4

We recommend the Department of Public Health and Human Services:

- A. Comply with federal regulation and implement procedures for referring cases of suspected prescription fraud by Medicaid recipients to appropriate law enforcement officials.**
- B. Implement procedures related to ongoing, internal monitoring of suspected fraud cases which have been referred to appropriate law enforcement.**

Implementation Status – Implemented

The department's Fraud Log case review procedures include details regarding the referral of potential recipient prescription-related fraud cases to the Narcotics Bureau. The department also has a process for the ongoing monitoring of suspected fraud cases which have been referred to the DOJ. A follow up reminder to check in on the status of each case referred to the DOJ is added to the Fraud Log. The updated status information is added to the case to the log. Since April 2013, when the Fraud Log process began, 11 of the 134 cases have been referred to the Narcotics Bureau and the department has received updates from DOJ on four.

RECOMMENDATION #5

We recommend the Department of Public Health and Human Services establish controls to ensure high-risk recipients identified as abusing the Medicaid prescription program are continuously monitored.

Implementation Status – Implemented

The department's Fraud Log procedures identifies one of the options available to the Pharmacy Team reviewing cases in the log is referral to the department's Team Care program. Team Care is designed to better monitor the care of recipients identified as inappropriately using medical services, including prescriptions. Cases referred to Team Care, or individuals already in Team Care when they are added to the log, are kept in the log with a monitoring schedule determined by the Pharmacy Team's assessment of the case. Since April 2013, eight new cases have been referred to Team Care from the Fraud Log.

RECOMMENDATION #6

We recommend the Department of Public Health and Human Services implement a mechanism for tracking identified cases of potential recipient prescription fraud or abuse to ensure appropriate investigation, referral, and resolution occurs.

Implementation Status – Implemented

The Fraud Log is the mechanism the department has developed and implemented to track identified cases of potential prescription-related fraud or abuse and the procedures related to the log are designed to ensure appropriate investigation, referral, and resolution occurs. The procedures require all potential prescription-related fraud and abuse cases be entered into the log. Each month the Pharmacy Team is required to review new potential fraud and abuse cases in the log and those identified as needing follow-up work. The decisions made at these monthly adjudication meetings are added to the log and, if the team decides it is necessary, further steps are taken related to the case. Options identified in the procedures for the Pharmacy Team related to the cases include referral to the Narcotics Bureau, referral to the Office of Public Assistance, and referral to Team Care. The team may determine the case is clinically appropriate and close the case. When a case is closed, it remains in the log and any new incoming potential cases are compared to closed cases. The procedures identify the required information for each case in the log; date received, referral source, description, recipient name, date of birth, brief of preliminary investigation, other investigation information, action, referral information, date of referral, and follow-up information and dates.

RECOMMENDATION #7

We recommend the Department of Public Health and Human Services comply with federal regulations and establish controls over suspected prescription-related fraud or abuse by:

- A. Implementing formal methods and criteria for identifying, investigating, and resolving suspected cases.**
- B. Assigning specific related duties to staff through policies and procedures.**
- C. Providing related training opportunities to staff.**

Implementation Status – Implemented

The Fraud Log and related procedures are the formal methods the department has developed and implemented for identifying, investigating, and resolving suspected cases. Methods of identifying potential cases include reports from contractors, the hotline administered by MFCU, and the hotline administered by QAD. The procedures define prescription-related fraud and abuse. Every case in the log is investigated via the monthly adjudication meetings by the Pharmacy Team. Processes related to resolution options available to the team such as referral to law enforcement or other programs are described in the procedures. The procedures also identify the pharmacy program officer's role as the primary curator of the Fraud Log and the membership of the Pharmacy Team reviewing cases: the Medicaid Pharmacist, Pharmacy Program Officer, and Allied Health Services Bureau Chief. In December 2013, the DOJ MFCU, provided training to all Health Resources Division staff regarding fraud. For ongoing training, the staff utilizes the Centers for Medicare and Medicaid (CMS) training modules and

periodicals provided through the CMS Medicaid Integrity Program's fraud prevention initiative. The CMS training includes information related to relevant statutes, regulations and rulings.

RECOMMENDATION # 8:

We recommend the Department of Public Health and Human Services:

- A. Determine how its contractual relationships can be used to detect and identify instances of potential prescription fraud or abuse by recipients.**
- B. Provide clear direction to contractors regarding when and how information regarding potential fraud and abuse by recipients should be reported to the department.**

Implementation Status – Implemented

The department updated both the Drug Use Review and Drug Prior Authorization contracts. They both now require contractors to detect and report potential cases of prescription-related fraud or abuse to the department. The new language includes definitions of fraud and abuse as well as a specific requirement of monthly reports regarding potential cases, as well as the option to directly report to the department any potential cases needing immediate attention. These cases are then added to the department's Fraud Log, reviewed by the Pharmacy Team, and further steps are taken related to the case if the team decides they are necessary. Of the 134 cases identified since the Fraud Log process began in April 2013, 100 have been identified from the contractor monthly reports.