

**Department of Health and Human Services
Office of the Inspector General**

AUDIT FINDINGS

Federal - West Virginia State Medicaid Fraud Control Unit: 2013 Onsite Review

Office of the Inspector General

Finding

- 1. The time from receipt of referral to the opening of the case exceeded 60 days for 70 percent of cases; two cases were open for an extended period and lacked documentation of case progression.*

According to Performance Standard 6(a), each stage of an investigation and prosecution should be completed in an appropriate timeframe. The Unit's policy requires that no more than 60 days elapse between the receipt of a referral and the opening of a case (i.e., the preliminary investigation period). The review revealed that 70 percent of referrals remained in the preliminary investigation status beyond the 60-day timeframe. The median time from receipt of referral to opening the case was 91 days. Some referrals were received by the Unit but not opened as cases for several months, during which time Unit staff conducted no apparent investigative activity. In other instances, the Unit conducted investigative activity; however, this activity was conducted after 60 days from receipt of referrals. Later, when those cases were documented in the case-tracking system as having been opened, only limited documentation could be found in the case opening memorandum accounting for investigative activity that had occurred while the case was in a preliminary investigation status (i.e., the period between receipt of referral and opening of the case). Three cases were open for an extended period without any documented investigative progress; one case was left open for 210 days and the other two cases for over 240 days. No evidence could be found in the case files to support those delays.

Recommendation

The Unit should make certain that complaints referred to the Unit are investigated and opened, if appropriate, within the 60-day timeframe established in the Unit's policy. Additionally, the Unit should account for all investigative activity that occurs while cases are in the preliminary investigation status.

Response

Regarding our recommendation involving opening cases timely and documenting all investigative activity, the Unit concurred. The Unit was aware of this issue and initiated action to correct this deficiency prior to the onsite review. Supervisors are conducting formal, monthly meetings with each investigator and reviewing case documentation to ensure appropriate progression in referrals and cases. The Unit will implement a new case management system in June 2014.

Finding

2. Case files lacked documentation of supervisory approval for key stages of investigations

According to Performance Standards 6(b) and (c), Unit supervisors must approve the opening and closing of investigations and conduct periodic supervisory reviews that are documented in the case files. Twenty percent of the Unit's case files did not contain evidence to support supervisory approval of opening the case, and 27 percent of cases lacked supervisory approval of closing the case. The Unit did not file case documents in a consistent order, and did not place forms and documents in the case file with any consistency. Additionally, the Unit did not document contact between Unit staff and other Federal agencies. However, all sampled cases opened after April 2011 noted supervisory approval of the case opening; all sampled cases closed after August 2011 noted supervisory approval of the case closing. The Unit indicated that it had developed a case review form to ensure that each stage of an investigation and prosecution is completed in the appropriate timeframe. Unit policy required that abuse and neglect cases receive monthly supervisory review and that fraud cases receive a supervisory review at the end of each quarter. Seventy-three percent of abuse and neglect cases were missing periodic supervisory reviews and 34 percent of fraud cases were missing periodic supervisory reviews.

In total, 56 percent of cases were missing periodic supervisory reviews. The Unit did not document its participation in National Association of Medicaid Fraud Control Units Global cases. Unit staff did not document actions taken by the Unit to assist or participate in global cases. Also, it did not appear that the Unit had a system in place to account for the final signed settlement agreements for global cases. These documents are essential should the Unit ever wish to pursue further legal action (e.g., defendant defaults on agreement).

Recommendation

The Unit should ensure that supervisors are approving the opening and closing of investigations and that documentation thereof is contained in all case files. Additionally, the Unit should ensure that supervisory reviews are conducted periodically and are also noted in each case file.

Response

Regarding our recommendation involving the Unit's efforts to ensure that case files contained required documentation, the Unit concurred. Unit supervisors now formally meet each month to ensure that every case is being reviewed and that these reviews are documented. Effective February 2013, case opening and closing approvals are part of the case files.

Finding

- 3. The Unit made all required referrals to OIG for program exclusions; however, in 10 of 20 instances, the Unit sent the referral more than 30 days after sentencing.*

According to Performance Standard 8(d), for purpose of program exclusions under section 1128 of the Social Security Act, the Unit must transmit to OIG the reports of convictions and copies of Judgment and Sentence or other acceptable documentation within 30 days or other reasonable time period. The Unit reported 20 convictions in the 3-year period, and made all required referrals to the OIG. However, in 10 of 20 cases, the Unit sent the referral to OIG for exclusion more than 30 days after sentencing. The amount of days between the sentencing and referral in these cases ranged from 38 to 385 days. During our onsite interview, the Unit director attributed this delay to the Unit's lack of prosecution authority and prosecutors not reporting back to the Unit regarding the disposition of cases. As a result, the Unit inquires with county prosecutors as to when defendants are sentenced but does not always receive a response. The Unit plans to employ a paralegal to make regular inquiries in the future.

Recommendation

The Unit should make certain that individuals convicted of fraud, abuse, and/or neglect are reported within 30 days of their sentencing, in accordance with performance standards 8(f) of the revised MFCU performance standards.

Response

Regarding our third recommendation, involving referring individuals for exclusion to OIG within the appropriate timeframe, the Unit concurred. The Unit is currently monitoring all cases that have been referred for prosecution and will contact the prosecutors on a monthly basis to monitor the progress of each case. Effective May 2013, the Unit began submitting exclusion referrals to OIG within the 30-day timeframe.

Finding

- 4. The Unit did not provide OIG and other Federal agencies with timely information concerning significant actions in cases pursued by the Unit.*

According to revised Performance Standard 8(b), a unit should cooperate and, as appropriate, coordinate with OIG's Office of Investigations (01) and other Federal agencies on cases being pursued jointly, cases involving the same suspects or allegations, and cases that have been referred to the Unit by OIG or another Federal agency. OIG and other Federal agencies reported that the Unit has not routinely shared information about targets of investigations in a timely manner unless the agencies specifically request such information. In June 2012, the Unit director met with the Special Agent in Charge for OJ's Region 3 to discuss shared cases and general information about how the offices can best work together to maximize resources. The Unit

director stated that the two offices have developed a plan to share caseload lists. In May 2013, the Unit began informing OIG of the cases that the Unit is pursuing, so as to avoid potential conflicts. In the past, the Unit as well as the Northern and Southern Assistant United States Attorneys (AUSAs) jointly worked on the detection, development, and prosecution of Medicaid cases from the opening of the cases until their final dispositions, and the Unit provided six recent Department of Justice press releases giving credit to the Unit in several investigations. However, both the Northern and Southern Offices of United States Attorneys reported that they are no longer involved in the Unit's investigations or prosecutions. Although the AUSAs in these offices receive the information they request from the Unit, they report that investigations are "no longer a collaborative effort."

Recommendation

The Unit should continue sharing case lists with OIG, as agreed between the Unit and OIG. The Unit should re-establish collaborative efforts with the Northern and Southern Offices of United States Attorneys.

Response

The Unit concurred with the recommendation to continue sharing cases lists with OIG. However, the Unit disagreed with the finding that the Unit did not provide OIG and other Federal agencies with timely information about cases. In response to the recommendation, the Unit stated that it began sharing its entire caseload list with OIG in May 2013 and will continue to do so.

Regarding our recommendation, involving re-establishing collaborative efforts with the Northern and Southern Offices of United States Attorneys the Unit concurred with the recommendation. However, the Unit disagreed with the finding related to this recommendation and asserts that it cooperates fully and coordinates with Federal partners. The Unit stated that it currently collaborates with the Southern District and has reached out to the Northern District to improve communications, collaboration, and relationships.

Finding

5. The Unit's case management and tracking system was inadequate.

According to Performance Standard 3(b), a unit should have an adequate, computerized case management and tracking system in place. However, Unit staff reported that their computerized case management and tracking system regularly lost data and merged case file information from unrelated cases. The Unit created parallel spreadsheets to compensate for the system's inadequacies. One respondent to the staff survey reported: "The case-tracking system is a huge hindrance; it is old, slow and doesn't work half the time." Another staff member reported that the case-tracking system is not always accessible and that logging in is difficult. The Unit has selected a new case management system that should be operational in the summer of 2014.

The problems that our 2007 on site review found with the case management and tracking system remains unresolved.

Recommendation

The Unit should implement a new case management and tracking system that is not vulnerable to data discrepancies and inaccuracies. The new system should also ensure that accurate QSR data is submitted to OIG.

Response

Regarding our recommendation involving re-establishing collaborative efforts with the Northern and Southern Office of United States Attorneys, the Unit concurred with the recommendation. However, the Unit disagreed with the finding related to this recommendation and asserts that it cooperates fully and coordinates with Federal partners. The Unit stated that it currently collaborates with the Southern District and has reached out to the Northern District to improve communications, collaboration, and relationships.

Finding

6. The Unit reported inaccurate recovery data.

According to Performance Standard 7, a unit should have a process for monitoring the outcome of cases, including the amount of fines and restitution ordered as well as the amount of civil recoveries. In December 2006, representatives of OIG conducted a conference call with the Unit director, the chief investigator, and an administrative services assistant to educate them on preparing the QSRs and ensuring that the reports were correct. The individual serving as the Unit director at that time stated that the Unit would work diligently to ensure that all future QSRs would be accurate and submitted to OIG on a timely basis. During the course of the review, numerous errors were identified in the recovery statistics reported by the Unit. For example, a \$500,000 discrepancy for FY 2010 after reviewing the Unit's QSR and the data collected directly from the Unit at the outset of the review. The QSR reflected that total criminal case outcomes for FY 2010 totaled \$529,000; however, after inquiries, the Unit revised the total to indicate that total criminal case outcomes for FY 2010 totaled nearly \$1.1 million. Additionally, the Unit's QSR showed that total criminal recoveries for FY 2011 were \$33,367; however, the Unit later provided information indicating that the total criminal recoveries for FY 2011 were \$257,000. These errors required the Unit to revise QSRs for FYs 2010, 2011, and 2012. The Unit had to develop multiple spreadsheets in an attempt to adequately capture all recovery data because the current case-tracking system was inadequate. The problems that the 2007 on site review found with the reporting of inaccurate recovery data remain unresolved.

Recommendation

The Unit should ensure accurate reporting of recovery data.

Response

Regarding our recommendation involving upgrading the case management and tracking system, the Unit concurred. A new system should be fully implemented by the end of June 2014.

Finding

7. *The Unit's inventory logs did not include all property purchased by the Unit.*

According to the 2012 version of Performance Standard 1.1 (b), a unit should maintain an equipment inventory that is updated regularly to reflect all property under the Unit's control. To determine compliance with applicable laws and regulations, as well as to determine the need for additional internal controls, we performed a limited review of financial documents from the Unit and of the Unit's equipment inventory and purchase records. During the onsite review, it was observed that the following items were not included in the inventory report: a customized office chair, two printers, a paper shredder, and an identification card system. Additionally, equipment storage room was identified that housed various other property purchased by the Unit, and the items located in this room were not included in the inventory logs. However, the items selected for review were included in the appropriate log. Units must take appropriate measures to ensure that they are able to maintain effective control and accountability for property purchased. According to Unit staff, physical inventories of property occur annually. The Unit's logistics manager stated that although physical inventories were conducted during his tenure, the results of those inventories were not reconciled with equipment records. However, inventory is reconciled to a system maintained by the Department of Health and Human Resources. The logistics manager stated that he had "no projected timeframe" as to when this task will be completed.

Recommendation

The Unit should ensure that all items purchased by the Unit are documented in the inventory log.

Response

Regarding our eighth recommendation, involving inventory logs, the Unit concurred. The Unit Director asserted that, by February 2013, the Unit addressed all inventory deficiencies identified in the review, and, effective July 2013, the Unit implemented an employee equipment log to track inventory items issued to each employee.

Finding

1. *Berkeley and Fayette Counties' DHHR failed to report accurate disqualification decision data in e-DRS.*

§ 7 CFR 273.16 Disqualification for Intentional Program Violation (IPV)

Background: The provisions at 7CFR 273.16(i)(3) require State agencies to report information concerning each individual disqualified for IPV in a format designed by FNS. This format shall include the individual's social security number, date of birth, full name, the number of the disqualification (1st, 2nd, or 3rd), the State and County in which the disqualification took place, the date when the disqualification took effect, and the length of the disqualification period imposed. The review revealed that staff incorrectly populated the decision date with the date of receipt for hearing decisions and Administrative Disqualification Waivers (ADHW); which resulted in the incorrect populations of some disqualification start dates within e-DRS. We also noted duplicate entries in e-DRS and locality code discrepancies.

Berkeley County:

Accurate decision data for 5 out of 15 disqualified recipients (33%) was not entered into e-DRS.

Fayette County:

Accurate decision data for 4 out of 12 disqualified recipients (33%) was not entered into e-DRS.

Required Corrective Action: The OIG is currently conducting a statewide validation and reconciliation project in preparation for the state's transition from batch processing to web services for the submission of recipient disqualification data to e-DRS. To prevent future errors, OIG has implemented a process which includes a three point check between RAPIDS, e-DRS, and OIG's Fraud Tracking database on a monthly basis. Therefore, the local agencies are not required to take additional actions to amend these records in e-DRS. OIG will amend their Program Integrity Management Plan to reflect the updated procedures for validating this data.

Finding

2. *Berkeley and Fayette Counties' DHHR failed to report individuals found to have committed an IPV into e-DRS timely.*

Background: The provisions at 7CFR 273.16(i)(3) require the state to report disqualifications to the FNS e-DRS no later than 30 days after the disqualification took effect. The review revealed an average delay of 10-15 days, it is apparent that this delay is due to the cutoff dates for monthly batch processing.

Berkeley County: Disqualification data for 7 out of 15 disqualified recipients (47%) failed to be reported to e-DRS timely.

Fayette County: Disqualification data for 8 out of 12 disqualified recipients (67%) failed to be reported to e-DRS timely.

Required Corrective Action: As the state is transitioning from batch processing to web services for the submission of recipient disqualification data into e-DRS, the local agencies are not required to develop procedures for ensuring timely submission, as the enhanced interface between RAPIDS and eDRS will ensure real-time data processing.

Finding:

1. *OIG failed to submit accurate and supported data on the Program Activity Statement (FNS-366B).*

§ 7 CFR 272.2 Program Activity Statement (FNS-366B)

Background: The provisions at 7CFR 272.2(c) requires the Financial Budget Statement (FNS-366A) to be submitted annual by August 15, for the upcoming fiscal year, and the Program Activity Statement (FNS-366B) must be submitted no later than 45 days after the end of each State agency's fiscal year. The report provides hearing and fraud control activity for the preceding fiscal year. Through data analysis, FNS discovered line item discrepancies.

Required Corrective Action: OIG advised FNS that new tracking system was implemented in FY13 to correct line item discrepancies as a result of the FY13 Recipient Integrity Management Evaluation. Therefore, FNS will conduct a desktop audit in FY2015 of the FY2014 report to ensure all discrepancies have been resolved.