

2019

Office of the Medicaid Inspector General

Calendar Year 2019 Annual Report
January 1 – December 31, 2019

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**KANSAS
ATTORNEY GENERAL**

DEREK SCHMIDT

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Letter from the Inspector General

February 5, 2020

Dear Fellow Kansans:

It is our pleasure to submit the annual report of the Medicaid Inspector General within the Office of Attorney General Derek Schmidt for calendar year 2019. This report is issued in accordance with K.S.A. 75-7427(i) and is respectfully submitted to:

- The Citizens of the State of Kansas
- Governor Laura Kelly
- Members of the Kansas Senate Committee on Ways and Means
- Members of the Kansas House of Representatives Committee on Appropriations
- Kansas Department of Health and Environment Secretary Lee Norman
- Kansas Department for Aging and Disability Services Secretary Laura Howard
- Legislative Post Auditor Justin Stowe
- Kansas Attorney General Derek Schmidt

This report provides an overview of the Kansas Medicaid Inspector General's Office and describes the office's activities during calendar year 2019. We welcome any comments or questions you may have regarding this report or our operations.

Respectfully submitted,

Sarah E. Fertig
Medicaid Inspector General

Introduction

2007 Senate Bill 11 created the Office of Inspector General (OIG) within the Kansas Health Policy Authority (KHPA). The original statutory provisions contained in that bill remain virtually unchanged today.

In 2011, Executive Reorganization Order No. 38 abolished the KHPA and transferred all powers, duties, and functions of the KHPA to the Division of Health Care Finance within the Kansas Department of Health and Environment (KDHE). The OIG was transferred to KDHE as part of that Executive Reorganization Order.

2017 Senate Bill 149 moved the OIG from KDHE to the attorney general's office effective June 1, 2017. On October 9, 2018, the Senate Confirmation Oversight Committee voted to authorize Sarah Fertig, the attorney general's nominee for the Medicaid inspector general position, to exercise the powers of the office pending confirmation by the full Senate. The Senate voted to confirm Ms. Fertig on January 19, 2019.

The OIG is charged with overseeing the Kansas Medicaid program (KanCare), the MediKan program, and the State Children's Health Insurance Program (SCHIP). K.S.A. 75-7427(b)(1) states that the purpose of the OIG is: "to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight . . . and to assist in improving agency and program operations and in deterring and identifying fraud, waste, abuse and illegal acts." The same statute requires the Medicaid inspector general to be "independent and free from political influence" in performing the duties of the position.

The OIG is an independent division of the Kansas Attorney General's Office. The Medicaid inspector general reports directly to the attorney general. In accordance with K.S.A. 75-7427(b)(1), all budgeting, purchasing, related management functions and personnel are administered under the direction and supervision of the attorney general. In accordance with K.S.A. 75-7427(l), the scope, timing, and completion of all audits and investigations conducted by the OIG shall be within the discretion of the Medicaid inspector general.

OIG Staffing

Prior to the nomination of the current inspector general, the position of inspector general had been vacant since June 2014, and no one had served in that position in a Senate-confirmed capacity since January 2014. No other OIG staff had been employed by KDHE since November 2014. Thus, when the OIG function was transferred to the attorney general's office, no legacy staff were included in that transfer.

Between January and June 2019, the OIG had one staff member, the Medicaid inspector general. The OIG hired an assistant Medicaid inspector general in June 2019. The attorney general's office is currently recruiting for an additional staff member and is planning to recruit additional qualified staff as appropriations allow.

Summary of CY 2019 OIG Activities

Rebuilding the OIG Function

The OIG had been non-functional for nearly four years before the Inspector General assumed the duties of the office on October 9, 2018. Upon assuming those duties, the Inspector General, in coordination with the attorney general's office, began working to rebuild the OIG function from scratch. These basic start-up steps included locating and equipping secure office space; locating and retrieving OIG records housed at KDHE; developing a staffing plan consistent with the goals of the OIG and existing appropriations; and recruiting and training qualified staff. With the exception of staff recruitment and training, which are ongoing, these start-up tasks have been completed.

In order to fulfill its statutory duties, the OIG had to secure access to key KDHE information systems, including the Medicaid Management Information System (MMIS), which houses beneficiary, provider, and claims data; the Kansas Eligibility Enforcement System (KEES), which houses application and eligibility information; and the Kansas Modular Medicaid System (KMMS), which houses business analytics tools. The OIG also gained access to AuthentiCare, the web-based scheduling, time and attendance tracking, and billing system for certain home and community-based services offered through certain waiver programs. OIG staff received training on these systems between July and September 2019.

Gaining access to the KEES system was more challenging than expected due to IT system configuration differences between the Attorney General's Office and KDHE. The OIG was unable to gain KEES access until the summer of 2019 due to those IT issues.

Detecting and Preventing Fraud, Waste, Abuse, and Illegal Acts

K.S.A. 75-7427(k)(1) requires the Medicaid inspector general to "make provision to solicit and receive reports of fraud, waste, abuse, and illegal acts." To that end, the Attorney General's Office has created a dedicated email address, MedicaidIG@ag.ks.gov, that concerned citizens may use to submit such reports. The attorney general's office also offers an online form which can be used to report suspected fraud, waste, abuse, and illegal acts related to the programs within the OIG's jurisdiction. OIG staff review all incoming reports on a daily basis.

The OIG has established collaborative working relationships with other state agencies with the goal of improving communication on issues involving fraud, waste, abuse, or illegal acts concerning state medical assistance programs. The OIG attends a monthly meeting focused on claims fraud, with attendees including from the Attorney General's Medicaid Fraud and Abuse division; the Kansas Department for Aging and Disability Services; KDHE's Program Integrity unit; the three Medicaid managed care organizations; and the state's Medicaid fiscal agent. The OIG also meets separately with KDHE's Program Integrity unit on a regular basis to discuss specific issues affecting the prevention and detection of fraud.

In CY 2019, the OIG presented reports from audits and reviews to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight. The OIG anticipates ongoing interaction with that committee to ensure that policymakers are aware of strengths and vulnerabilities in the Medicaid, MediKan, and SCHIP programs.

CY 2019 Oversight Activities

The OIG released three reports in calendar year 2019. These reports, summarized below, can be accessed at <https://ag.ks.gov/fraud-abuse/medicaid-inspector-general>.

Report No. 19-01

This report outlines the OIG's findings from a review of emails that were sent to an unmonitored KDHE OIG email address after June 1, 2017, the effective date of the OIG's transfer from KDHE to the Attorney General's Office. The OIG determined that 209 emails sent to that address went unread between August 2017 and January 2019, including 42 substantiated complaints alleging Medicaid fraud. The report included five (5) recommendations for KDHE and the Kansas Department for Children and Families. Each of those recommendations were adopted by the respective agency.

Report No. 20-01

This report concerns the OIG's performance audit of KDHE's processes for discontinuing Medicaid eligibility when a beneficiary enters a state prison. The scope of the performance audit included all admissions to the Topeka Correctional Facility (TCF) in state fiscal year 2019. The OIG examined each admission to TCF and determined whether the inmate had been eligible for Medicaid at the time of admission to prison, and if so whether KDHE terminated Medicaid eligibility timely. The OIG made the following findings:

- In approximately 76% of cases within the sample population, KDHE terminated Medicaid eligibility in accordance with agency policies and procedures.
- Due to federal and state rules governing the termination of Medicaid eligibility, when KDHE's policies and procedures are followed, it results in one extra month of eligibility and one extra managed care capitation payment on behalf of the inmate.
- The automated process that compares Medicaid eligibility data to state prison admission data results in errors, leading to Medicaid eligibility being terminated late or not at all.
- KDHE's process of requiring at least 10 days' written notice before terminating eligibility for inmates is inconsistent with federal and state regulations and results in extra months of eligibility for incarcerated beneficiaries.

The OIG made six (6) recommendations to address the above findings. KDHE agreed with five of those recommendations, and stated that the sixth recommendation would require further study.

Report No. 20-02

This report describes the existing administrative and criminal resources to address Medicaid eligibility fraud, as well as the challenges that exist in prosecuting cases of suspected eligibility fraud. The report is intended for informational purposes only and does not include any recommendations for policy change.

K.S.A. 75-7427(i) requires the inspector general to include the following information in this annual report:

Aggregate provider billing and payment information. The Inspector General has obtained the following FY 2019 aggregate provider billing and payment information from KDHE. The amounts for Medicaid and SCHIP are rounded to the nearest dollar and include payments made to providers under both the fee-for-service and KanCare models.

Medicaid:

- Total Medicaid provider payments: \$2,842,112,965.00
- Number of Medicaid provider claims: 11,994,526

MediKan:

- Total MediKan provider payments: \$4,122,488.00
- Number of MediKan provider claims: 29,850

SCHIP:

- Total SCHIP provider payments: \$79,267,961.00
- Number of SCHIP provider claims: 553,851

KanCare Capitation Payments:

- Total Medicaid managed care capitation payments: \$3,345,601,288.00
- Total SCHIP managed care capitation payments: \$103,811,206.00

The number of audits of Medicaid, MediKan, and SCHIP and the dollar savings, if any, resulting from those audits. No audits were completed in FY 2019. The OIG released three reports in calendar year 2019, which are summarized above. Only Report No. 20-01 included recommendations that would result in dollar savings — the recommendation that KDHE revise its policy of providing prison inmates at least 10 days’ written notice of Medicaid eligibility termination to allow for same-day written notice of termination. Without a follow-up audit the OIG is unable to provide a dollar savings figure related to those recommendations; however, we intend to conduct a similar analysis of prison admission data later in 2020 to determine whether those recommendations have made an impact on reducing unnecessary payments.

Health care provider sanctions, in the aggregate, including terminations and suspensions. No providers were sanctioned as a result of OIG activities in FY 2019. In CY 2019, the OIG referred nine (9) providers to the Attorney General’s Medicaid Fraud and Abuse division for possible prosecution. Criminal investigations were opened for two of those providers. The Attorney General’s Medicaid Fraud

and Abuse Division informs us that those investigations are ongoing and have not yet resulted in sanctions.

A detailed summary of the investigations undertaken in the previous fiscal year. During FY 2019 the OIG consisted of a single staff member, which limited its ability to conduct investigations. The OIG conducted three (3) investigations in FY 2019, each of which concerned potential Medicaid eligibility fraud.

- The OIG received a complaint alleging that a Medicaid beneficiary recently inherited cash and real property of significant value. We reviewed public-available records and verified that the beneficiary had sold some property mentioned in the complaint. We forwarded the results of our investigation to the KanCare Clearinghouse for follow-up. The beneficiary had transferred the proceeds from the property sale to a relative who is not a Medicaid beneficiary, so the beneficiary remained eligible under Medicaid rules.
- One of the older fraud complaints described in Report No, 19-01 was a report from DCF indicating that two DCF food assistance recipients were committing fraud by failing to accurately report their income and household composition. The OIG investigated and determined that the beneficiaries were married and had experienced disqualifying increases in income. The OIG forwarded the results of our investigation to the KanCare Clearinghouse for follow-up. The Clearinghouse began the process of verifying income and household composition, and the beneficiaries were eventually discontinued from Medicaid coverage.
- The OIG received a complaint that a married couple with two children were receiving Medicaid benefits despite recently purchasing a home valued at over \$250,000. We reviewed KEES and MMIS data, as well as publicly-available records, and determined that the household's income disqualified the beneficiaries from coverage. We forwarded the results of our investigation to the KanCare Clearinghouse for follow-up. The Clearinghouse began the process of reviewing the beneficiaries' eligibility. In the midst of the review process, one parent moved out of the household, and the Clearinghouse then considered eligibility based on the new household composition.



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