Department of Health and Human Services

Centers for Medicare & Medicaid Services

Medicaid Integrity Program

Wisconsin Comprehensive Program Integrity Review

Final Report

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Reviewers:
Michael Tripp, Review Team Leader
Todd Chandler
Margi Charleston
Bonnie Harris

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INTRODUCTION

The Centers for Medicare and Medicaid Services' (CMS) Medicaid Integrity Group (MIG) conducted a comprehensive program integrity review of the Wisconsin Medicaid Program. The MIG team conducted the onsite portion of the review at the offices of the Wisconsin Department of Health Services (DHS). The MIG review team also visited the office of the Medicaid Fraud Control Unit (MFCU).

This review focused on the activities of the DHS Bureau of Program Integrity (BPI), which is responsible for Medicaid program integrity. This report describes seven effective practices, two regulatory compliance issues, and one vulnerability in the State's program integrity operations.

THE REVIEW

Objectives of the Review

1. Determine compliance with Federal program integrity laws and regulations;
2. Identify program vulnerabilities and effective practices;
3. Help Wisconsin improve its overall program integrity efforts; and
4. Consider opportunities for future technical assistance.

Overview of Wisconsin's Medicaid Program

The DHS administers the Wisconsin Medicaid Program. As of June 30, 2007, the program served 851,761 recipients, approximately 59 percent of whom were enrolled with a managed care plan. The State had 4,108 providers participating in the fee-for-service (FFS) program. Medicaid expenditures in Wisconsin for State fiscal year (SFY) 2007 totaled $4,881,274,267. In Federal fiscal year 2007, the Federal medical assistance percentage was 57.5 percent.

Program Integrity Section

The BPI is the organizational component dedicated to the prevention and detection of provider fraud, abuse and overpayments. The BPI is a smaller component of the Division of Health Care Access & Accountability. At the time of the review, BPI had approximately 37 full-time equivalent staff and three supervisors reporting to the program manager. No vacancies were reported at the time of the review. The State conducted 1,871 preliminary and full investigations in SFY 2006; $6,023,365 in overpayments were identified and recouped. This information only reflects the activities of BPI; managed care information is not included.

Methodology of the Review

In advance of an onsite visit, the review team requested that Wisconsin complete a comprehensive review guide and supply documentation in support of its answers to the review guide. The review guide included such areas as provider enrollment, claims payment and post-payment review, managed care, surveillance and utilization review subsystem, and the MFCU.

A four-person review team reviewed the responses and materials that the State provided in advance of the onsite visit.

During the week of September 22, 2008, the MIG review team visited the DHS and MFCU offices. The team conducted interviews with numerous DHS officials and the MFCU Director. In order to determine whether managed care contractors were complying with the contract provisions and other Federal regulations relating to program integrity, the MIG team reviewed the contract provisions and gathered information from the managed care organizations (MCOs) through interviews with representatives of three MCOs.

Scope and Limitations of the Review

This review focused on the activities of the BPI, but also considered the work of other components and contractors responsible for a range of program integrity functions, including provider enrollment, contract management, and provider training. Wisconsin operates an expansion Children's Health Insurance Program (CHIP) under Title XIX of the Social Security Act. The State's CHIP operates under the same managed care model and FFS billing and provider enrollment policies as Wisconsin's Title XIX program. The same findings, vulnerabilities, and effective practices discussed in relation to the Medicaid program also apply to the Medicaid portion of CHIP.

Unless otherwise noted, DHS provided the program integrity-related staffing and financial information cited in this report. For purposes of this review, the review team did not independently verify any staffing or financial information that DHS provided.

RESULTS OF THE REVIEW

Effective Practices

The State has highlighted several practices that demonstrate its commitment to program integrity. These practices include the use of code auditing software and data mining tools, an extensive prior authorization process, a data warehouse with 14 years of FFS data, and an effective relationship with the MFCU.

Comprehensive code auditing software

Wisconsin has developed a comprehensive system of performing prepay audits through edits and the use of a comprehensive code auditing software. When claims are submitted, the system applies correct coding criteria. For example, if claims contain inappropriately unbundled services, the system will identify the appropriate code(s) and pay the claim correctly. If claims are submitted with other inappropriate codes, such as pregnancy services for males, the system will deny the claim.

Robust prior authorization process
The Wisconsin Medicaid program performs extensive prior authorization of many services.[1] These prior authorization processes allow the State to have better control over service deployment. In addition, the State is able to assert stronger program integrity procedures.

BPI's data warehouse contains 14 years of FFS data
The State has FFS claims data dating back to 1995 stored in its data warehouse. This information is used by the State to profile and identify billing patterns and claim submissions that indicate aberrant provider behavior. The data is also used to design and coordinate audit activities.

Audit program/data mining
Wisconsin has developed a comprehensive system for identifying, investigating, and referring fraud, waste, and abuse. BPI staff conduct 1,700 to 1,800 desk and field audits per year, on a variety of provider types. BPI tracks audit activity in a database that is linked to the data warehouse. BPI uses the data for the coordination of audit activities.

Effective working relationship between the MFCU and BPI
The relationship between the MFCU director and BPI is very good. In addition to BPI's bi-monthly meetings with the MFCU to discuss cases, the Division of Health Care Access & Accountability is currently in the process of acquiring a new Medicaid Management Information System (MMIS). The State agency has granted the MFCU access to the MMIS and made arrangements for the MFCU to attend trainings on the new system. This will allow MFCU investigators the ability to request data runs in a more efficient manner.

Additionally, the MIG review team identified two practices that are particularly noteworthy. CMS recognizes the State's criteria for the credentialing of managed care providers, the pre-certification process for non-emergency medical transportation (NEMT) providers, and the working relationship with the MFCU as further evidence of the State's program integrity strengths.

Managed care networks must use only Medicaid certified providers
The State's MCOs are contractually required to only use providers who have been certified by the State, except in emergency situations. This practice affords the State the opportunity to maintain disclosure information on most providers receiving payment through a managed care plan. This endeavor minimizes the risk of an excluded provider receiving State and Federal funds through an MCO.

[1] Durable Medicaid Equipment; Drugs; Dental; Physical therapy; Occupational therapy; Speech and language pathology; Chiropractic; Home health services/private duty nursing (including respiratory care for ventilator-dependent recipients); Home health services; Home care, personal care services, private duty nursing; Psychotherapy and intensive in-home treatment service; HealthCheck "Other Service"; Psychotherapy (Hospital); Substance abuse services; Mental health day treatment and child/adolescent day treatment, a HealthCheck "Other Service"; Ventilator services (hospital and nursing homes only); Substance abuse day treatment; Brain injury.

Pre-certification review of NEMT providers
The BPI does a thorough certification review of NEMT providers. The NEMT provider is enrolled and already has a provider number when the pre-certification review is done. However, the provider is subject to a periodic documentation review until the provider proves that it is in compliance with State policies and rules. In addition, NEMT providers are not permitted to begin electronic billing until the audit is completed. If the provider does not demonstrate compliance with State rules during the initial audit period, the provider is not allowed to recredential. Recredentialing of all NEMT providers is conducted annually.

Regulatory Compliance Issues

The State is not in compliance with Federal regulations related to required disclosure and notification activities.

The State's notice of payment withholding does not include all required information.
The regulation at 42 CFR § 455.23(b) stipulates that the Medicaid agency's notice of withholding state that payments are being withheld in accordance with the Federal regulation. Wisconsin's notice of payment withholding does not state that payments are being withheld in accordance with the Federal regulation.

Recommendation: Modify withholding letters to include language that references § 455.23 as required by the regulation.

The State's provider enrollment process and fiscal agent contract do not capture some required ownership, control, and relationship information.
Under 42 CFR § 455.104(a)(1), a provider, or "disclosing entity," that is not subject to periodic survey under § 455.104(b)(2) must disclose to the Medicaid agency, prior to enrolling, the name and address of each person with an ownership or controlling interest in the disclosing entity or in any subcontractor in which the disclosing entity has a direct or indirect ownership interest of 5 percent or more. Additionally, under § 455.104(a)(2), a disclosing entity must disclose whether any of the named persons is related to another as spouse, parent, child, or sibling. Moreover, under § 455.104(a)(3), there must be disclosure of the name of any other disclosing entity in which a person with an ownership or controlling interest in the disclosing entity has an ownership or controlling interest. In addition, under § 455.104(c), the State agency may not contract with a provider or fiscal agent that has not disclosed ownership and control information required under this section.

The Wisconsin Medicaid Provider Application requests disclosure of controlling interest. However, the application describes controlling interest as follows:

"Controlling interest — Controlling interest includes, but is not limited to, those enumerated; that is, all owners, creditors, controlling officers, administrators, mortgage holders, employees or stockholders with holdings of 10% or greater of outstanding stock, or holders of any other such

position or relationship who may have a bearing on the operation or administration of a medical services-related business."

Wisconsin's provider application does not request disclosure information for individuals with a controlling interest of 5 percent or more. Concurrently, the fiscal agent contract provided by the State did not contain the required disclosure data.

Recommendation: Modify the provider enrollment process to capture appropriate ownership and control information required to be disclosed under 42 CFR § 455.104. Obtain the required disclosure information from the fiscal agent or terminate the contract for failure to disclose as required by the regulation.

Vulnerabilities

The review team identified one area of vulnerability in Wisconsin's practices regarding oversight of personal care services.

Not providing effective oversight of personal care services.

The review team identified program integrity challenges with the State's processes related to the oversight of personal care services. Currently, credentialing of personal care attendants (PCAs) is essentially done through the county, not the State agency. Because PCAs are not specifically credentialed by the State, BPI is unable to track services provided by those individuals.

The BPI can not use the available claims data to track if services are being provided by the appropriate personnel. If servicing information was captured on the claim, the BPI would have the ability to track patterns of potential fraudulent and abusive practices. In addition, criminal, civil, and administrative criteria for claims submission could apply, including referrals to the MFCU for intentionally misrepresenting servicing information. This information would strengthen the overall integrity efforts of the State of Wisconsin.

Recommendation: Develop and implement a policy and procedure for tracking personal care services.

CONCLUSION

The State of Wisconsin applies some effective practices that demonstrate program strengths and the State's commitment to program integrity. These effective practices include:

- code auditing software for effective pre-payment review,
- a robust prior authorization process,
- a data warehouse containing 14 years of FFS data,
- a comprehensive audit program/data mining,
- an effective working relationship between the MFCU and BPI,

- MCO providers must be Medicaid certified, and
- a pre-certification review of NEMT providers.

The CMS supports the State's efforts and encourages it to look for additional opportunities to improve overall program integrity.

However, the identification of two areas of non-compliance with Federal regulations is of concern and should be addressed immediately. In addition, one area of vulnerability was identified. The CMS encourages DHS to closely examine the area of vulnerability that was identified in this review.

It is important that these issues be rectified as soon as possible. To that end, we will require DHS to provide a corrective action plan for each area of non-compliance within 30 calendar days from the date of the final report letter. Further, we will request the State include in that plan a description of how it will address the vulnerability identified in this report.

The corrective action plan should address how the State of Wisconsin will ensure that the deficiencies will not recur. It should include the timeframes for each correction along with the specific steps the State expects will occur. Please provide an explanation if correcting any of the regulatory compliance issues or vulnerabilities will take more than 90 calendar days from the date of the letter. If Wisconsin has already taken action to correct compliance deficiencies or vulnerabilities, the plan should identify those corrections as well.

The Medicaid Integrity Group looks forward to working with the State of Wisconsin on correcting its areas of non-compliance, eliminating its area of vulnerability, and building on its effective practices.