Health Reform: Fraud and Abuse Workgroup
Thursday, April 14, 2011
North Carolina Institute of Medicine, Morrisville
1:00pm-4:00pm
Meeting Summary

Attendees:
Workgroup Members: Robert Blum, Amelia Bryant, Jeff Horton, Rosalyn Pettyford

Steering Committee Members: Tracy Hayes

NCIOM Staff: Sharon Schiro, Rachel Williams

Other Interested Persons: Kathy Arney, Erica Bing, Melanie Bush, John Carroll, Heather Carter, Andy Landis, Karen Matthew, Roger Purnell, Nancy Rogers, Doug Sea, Curtis Venable, Nancy Warren

Welcome and Introductions
Tracy Hayes, JD
Assistant Attorney General
NC Department of Justice

Ms. Hayes substituted as co-chair for Tara Larson and Albert Koehler who were unable to attend the meeting.

Recipient Fraud Discussion

The workgroup continued its discussion of recipient fraud. The discussion focused on fraud involving eligibility, such as identity theft and failure to report assets, and elder abuse, including education of providers on exploitation and power of attorney. Identity theft in Medicaid can involve an individual using another's card to receive services or an individual faking his/her identity to receive eligibility. Workgroup members involved in social services expressed concern of individuals, including illegal immigrants, assuming another's identity and the problems it creates with medical records. A pilot program started by Medicaid hopes to reduce this problem by using Smart Cards to verify a person's identity and give access for providers to his/her medical records.

Another form of eligibility fraud involves the reporting of assets. The workgroup discussed how to handle attorneys and non-attorneys who advise clients to hide assets in order to become eligible for Medicaid. Some members of the workgroup felt that the bar association should

handle cases of extreme abuse of the system while others felt that closing the legal loop holes allowing for the hiding of assets was a better solution. The workgroup agreed that more education was needed on eligibility and recipient fraud to Department of Social Services' attorneys and Medicaid beneficiaries.

Elder abuse occurs when a family member or other individual takes advantage of the financial assets of a senior without their consent or awareness. The workgroup discussed how to get more cooperation from banks, particularly national banks, in reporting suspicious activity. Banks are concerned with privacy and security issues, but statute allows them to release information to DSS for investigation and provides the bank with liability protection. Many banks have threshold amounts that must be reached before activity is reported to DSS. The workgroup felt more education was needed to banks and that some banks should lower their threshold amounts in order to catch exploitation early.

Education on elder abuse for providers was also a concern of the workgroup. Doctors are a frequent reporter of exploitation, second to other family members. Workgroup members mentioned an initiative at Baylor University that gives providers information on identifying elder abuse. North Carolina could begin educating providers by supplying brochures with information on identifying and reporting exploitation.

Workgroup members expressed concern regarding power of attorney as it relates to elder abuse. Some members felt that individuals with power of attorney are not aware of its purpose and limitations. Concern was also expressed about banks not double checking to see if a power of attorney document is authorized when a person withdraws money using one. Suggestions on tackling the problem included education to banks and individuals on powers of attorney and stricter laws.

Finally, members discussed overall reporting and prosecution of recipient fraud. Concern was raised over the lack of knowledge on how to report fraud as well as getting recipient fraud higher on the priority lists of local district attorneys. Members suggested an education initiative by DSS and the Department of Medicare and Medicaid Assistance (DMA) on reporting fraud. Regarding prosecution, members were interested in creating state-wide advisors to help counties deal with fraud and to make it more of a priority. Currently, fraud is dealt with on a county basis, which makes investigations inconsistent. It was suggested that using a card fraudulently should be a state issue and misreporting assets should be a county issue.

Selected questions and comments:

- Q: If a recipient is arrested for selling his/her prescription card, is he/she then ineligible for Medicaid? A: I think it does not preclude them for eligibility. Medicaid does not have a disqualification program where a past violation makes you ineligible. But if you

are incarcerated then you will not have Medicaid; however, you can receive it after you are released.

- For the Smart Card program, if a beneficiary is going to have a PIN, he/she would have to remember all his/her children's PINs as well. The program needs a toll free number to get a PIN number if it is forgotten.
- Q: Is use of a Smart Card going to result in more identified cases of identity theft? A: It will stop Medicaid beneficiaries from doing it and will also stop providers from billing for services not provided.
- DMA does not have a set policy or procedure in place if a card holder finds out his/her card has been used by someone else. DMA should set up a procedure for reporting identity theft for providers and beneficiaries.
    - BCBS has a procedure for reporting fraud. It could be used as a model for DMA.
- Q: Who is liable if an administrative error is made in the reporting of assets? A: Right now it resides with the patient.
    - The patient navigator legislation does not mention anything on repercussions for misreporting assets.
- Q: If the local DA is unwilling or unable to prosecute recipient fraud, should the Office of the Attorney General be able to prosecute? A: Don't know that you would need unique authority for the AG to take on these cases.
    - These cases would not be a priority in either office. If the Attorney General approves a case then the Office has the authority to take on the case.
    - We need to find what would incentivize DAs to take on those cases and put more priority on them.
- The Medicaid manual clearly states that DSS has to verify assets every time you apply for benefits.
    - There are cases where social workers get overwhelmed and don't do what they are supposed to do.
    - We should recommend increasing the number of DSS workers, especially with the increase in enrollees in 2014.
- Q: What is the impact of financial exploitation on the Medicaid program? A: A study in Utah found that there is a significant implication, in the millions of dollars, for Utah in instances of financial exploitation that was not even reported to the state. About one in every 10-20 reports of financial exploitation are actually reported to a public agency—even less are actually pursued.
- We need to be sure to balance the investigation of fraud. We don't want to create a system that is so tight that people who are legitimately withdrawing money get caught in the system.

Next Meeting—May 19 at 1:00pm

At the next meeting, the workgroup will continue to discuss recipient fraud including the issue of banks releasing information to help identify fraud, what other states are doing about fraud, and how common identity theft is among public health plans.

Public Comment Period

No further public comments were given.