

# PROGRAM INTEGRITY UPDATES

July 27 & 28, 2022

# FRAUD, WASTE & ABUSE

# ANTI-KICKBACK STATUTE (AKS)

42 U.S.C § 1320a-7b(b)

- Prohibits offering, paying, soliciting or receiving anything of value to induce or reward referrals or generate Federal health care program business.
- This statute covers the payers of kickbacks – those who offer or pay remuneration as well as the recipients of kickbacks – those who solicit or receive remuneration.
- Remuneration – includes anything of value and can take many forms besides cash, such as free rent, hotel stays & meals, excessive compensation of medical directorships or consultancies.

# ANTI-KICKBACK STATUTE (AKS)

- Each party's intent is a key element of their liability under AKS. Intent must be proven (knowing and willful).
- Physicians are often targeted for kickback schemes. They are seen as a source of referrals for other health care providers and suppliers, as they decide which drugs the patients use, which specialists they see and what health care services and supplies they receive.
- Kickbacks in health care can lead to:
  - Overutilization
  - Increased program costs
  - Corruption of medical decision making
  - Patient steering
  - Unfair competition

# ANTI-KICKBACK STATUTE (AKS)

## Penalties:

### Criminal

- Fines up to \$25,000 per violation
- Up to a 5-year prison term per violation

### Civil/Administrative

- False Claims Act liability
- Civil monetary penalties (CMP) & program exclusion
- Potential \$50,000 CMP per violation
- Civil assessment of up to three times amount of kickback

# PROGRAM INTEGRITY UNIT (PIU)/MEDICAID FRAUD CONTROL UNIT (MFCU)

June 9, 2022

BISMARCK, ND - Attorney General Drew Wrigley announced that Rebecca Fruge Anderson of Mandan, was ordered to pay \$75,904.95 in restitution to the State of North Dakota, after pleading guilty to Medicaid Fraud, a class B felony. Anderson pled guilty in state District Court in November 2021.

The case was investigated and prosecuted by the Medicaid Fraud Control Unit of the North Dakota Attorney General's office with assistance from the ND Department of Human Services' Program Integrity Unit. Anderson, a qualified service provider, was audited and found to have fraudulently over-billed on Medicaid care, including for services she did not provide between 2017 and 2019.

"Rebecca Anderson fraudulently billed and received more than \$75,000 from the Medicaid program," said Attorney General Wrigley. "Thanks to the efforts of the Medicaid Fraud Control Unit investigators, Anderson will be penalized for her crime and will also have to pay back every dollar she stole from Medicaid."

In addition to the \$75,904.95 restitution, Anderson received a two-year suspended jail sentence, three years of supervised probation and was ordered to pay \$810 in court fees.

# PROVIDER ENROLLMENT



# PROVIDER ENROLLMENT UPDATES

- Noridian processing times are updated weekly
  - If you've submitted a document prior to the date listed, it should be triaged and if not returned, retained for processing.
- Noridian staff have started processing enrollments for Qualified Service Providers (QSPs) so there will be delays in processing healthcare provider updates and applications until those staff are fully trained.
- All enrolled providers are required to enroll in Electronic Funds Transfer (EFT). If you are not enrolled with EFT by the end of the year, your payments will suspend until you are enrolled. Do not wait until the end of the year to enroll, there will likely be delays in processing the requests.
- Noridian is now accepting secure emails, sent by providers.



Provider enrollment forms

<http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-updates.html>

Revalidations- current and backlogged

<http://www.nd.gov/dhs/info/mmis/revalidation.html>

Noridian Healthcare Solutions

Attn: ND Medicaid Provider Enrollment

PO Box 6055

Fargo, ND 58108-6055

Phone: (701) 277-6999

Fax: (701) 433-5956

Email: [NDMedicaidEnrollment@noridian.com](mailto:NDMedicaidEnrollment@noridian.com)

# SURVEILLANCE, UTILIZATION AND REVIEW SECTION (SURS)

# GENERAL INFORMATION FOR PROVIDERS MANUAL

The July 2022 [General Information for Providers Manual](#) has been published to the web.

Updates have been made to the following chapters:

- Provider Enrollment
- Ambulance Services
- Hospice
- Immunizations
- Medication Assisted Treatment
- Non-Emergent Medical Transportation

# MMIS PROVIDER CONTACT INFORMATION

Most Program Integrity Unit (PIU) communication is via email so clinic staff should make sure:

- Emails from the state are not going to a junk mail folder
- Emails from the state are not being blocked by your system firewall
- Emails sent securely can be opened by your team and system
- State emails end in @nd.gov

# MMIS PROVIDER CONTACT INFORMATION

- The North Dakota Health Enterprise Medicaid Management Information System (MMIS) has the availability to add contact information specific to different responsibilities within an organization.
- The Medical Services Division's Program Integrity Unit requests a contact person for PERM, audits, medical records and recovery letters, if different from the audit contact person.
- The information request includes a person's name, title (optional), email and phone number.

# MMIS PROVIDER CONTACT INFORMATION

- Because the Program Integrity Unit (PIU) communication is sent via email having your contact information current helps to ensure communication between the Program Integrity Unit and the appropriate provider and staff.
- This contact information helps the Program Integrity Unit ensure we are reaching out to the appropriate staff.
- If you would like to make an update to your provider profile with any names in your facility who would be the most appropriate person for these categories, please have your organization administrator send an email to [NDMedicaidEnrollment@noridian.com](mailto:NDMedicaidEnrollment@noridian.com) or fax to (701) 433-5956, Attention: ND Medicaid Provider Enrollment.

# NONDISCRIMINATION POLICY

North Dakota Department of Human Services (DHS) makes available all services and assistance without regard to race, color, sex, age, disability, national origin, religion, political beliefs, or status with respect to marriage or public assistance. The policies of DHS also require that:

- Recipients be given the chance to apply for assistance or services, or both.
- The same eligibility standards apply to each recipient as those standards apply to others in similar situations.

In accordance with Federal law, and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services (HHS) policy, DHS is prohibited from discriminating on the basis of race, color, sex, age, disability, national origin, religion, or political beliefs.

# WEBSITE LAUNCH

Work to launch a new DHHS external website is underway

- Nearly 50 team members from DoH, DHS and NDIT are participating in a communications workstream project to help launch a new DHHS external, customer-facing website. The new website will bring together three existing separate websites – DoH, DHS and Behavioral Health.
- Team members are providing their expertise and input toward ensuring the new website meets the needs of the people we serve and our providers and partners.
- The first phase of the website launches on Sept. 1 and more updates will follow.



# GENERAL THINGS A PROVIDER SHOULD KNOW

- ND Medicaid providers are required to keep records that completely and thoroughly document the extent of services rendered to members and billed to ND Medicaid. Records are used by ND Medicaid to determine medical necessity and to verify that services were billed correctly.
- Documentation must support the time spent rendering a service for all time-based codes.
- Documentation submitted to ND Medicaid must be signed by the ND Medicaid enrolled provider rendering the service. During the audit review process, if the provider signature is missing then, per policy, that would be considered non-payable and recoveries will be pursued.

# GENERAL THINGS A PROVIDER SHOULD KNOW

- In North Dakota Administrative Code 75-02-05-04 page 4 it states: Each provider agrees to retain documentation to support medical services rendered for a minimum of seven years and, upon request, to make the documentation available to persons acting on behalf of the Department and the United States Department of Health and Human Services. A provider shall provide the records at no charge.

# POLICY SOURCES

The most common sources the Program Integrity Unit cites for audits:

- The State Plan
- North Dakota Administrative Code: 75-02-05-04(2)
- North Dakota Century Code
- CMS policy
- Local Coverage Determinations (LCDs)
- National Coverage Determinations (NCDs), where applicable
- North Dakota Medicaid General Information for Providers Manual
- National fraud trends
- Staff recommendations based on claims or service authorization concerns

# POLICY SOURCES

The following CFRs

- 45 CFR **§**164.506 outlines the uses and disclosures to carry out treatment, payment, or health care operations.
- 45 CFR **§** 164.512(d) permits the disclosure of protected health information to a health oversight agency (which includes ND Medicaid as a government benefit program).
- 42 CFR **§** 456.23 outlines ND Medicaid's authority to conduct a post payment review.
- 42 CFR **§** 431.107(a)(2), requires providers to submit information regarding Medicaid payments for furnishing services.

# POLICY SOURCES

On page 14 of the Provider Manual, it also states:

- All ND Medicaid enrolled practitioners are responsible for ensuring services are ordered or rendered within their scope of practice according to state law. ND Medicaid recognizes there are other professional sources that define the relationship between the member and provider; including current CPT® code definitions, current CDT code definitions, current HCPCS codes, ethical standards of practice, accepted professional standards of practice and current ND Medicaid May 2022 15 evidenced-based practice guidelines. Practitioners are responsible for maintaining the qualifications for their licensure and are not eligible to order or render services during any periods in which there is a lapse in their licensure

# PAYMENT ERROR RATE MEASUREMENT

We are at the end of the auditing part of the Payment Error Rate Measurement (PERM) process. So, what happens now?

The state must return the federal share on a claim with an overpayment error within one year from the date the Review Contractor (RC) submits the Final Errors for Recovery (FEFR) reports for Medicaid or CHIP, per current law.

# PAYMENT ERROR RATE MEASUREMENT

Error types the state received

1. MR1 – PERM never received any records
2. MR2 – PERM either did not get all the records they were requesting, or they asked for additional records and never got those
3. MR5 – Unbundling error
4. MR8 – Policy violation error
5. MR9 – Improperly completed documentation error

# CURRENT AUDITS

- Emergency Department
- Dental Audit
- Dermatology Unbundling
- Codes documented and billed differently
- 3 Day Admit Window within Outpatient Services Provided
- Inpatient Mental Health Coding
- Critical Care Codes
- Ambulance Layperson Review



# CONTACT INFORMATION



# COMMUNICATIONS

## **Provider/stakeholder email list**

<http://www.nd.gov/dhs/services/medicalserv/medicaid/provider.html> (very top of the page).

## **Provider update page**

<https://www.nd.gov/dhs/services/medicalserv/medicaid/provider-updates.html>

**MMIS provider message center:** Once you have logged in to MMIS you should see your messages pop up. The messages might be an update, a revalidation that is due, etc. Please make sure to read the messages.

Please encourage your partners and contacts to subscribe to our emails and view provider news and information and MMIS messages for updates.

# PROGRAM INTEGRITY TEAM CONTACT INFORMATION

Dawn Mock – Medicaid Program Integrity Administrator

Phone: (701) 328 – 1895    Email: [dmock@nd.gov](mailto:dmock@nd.gov)

Steven McNichols – Medicaid Audit Coordinator

Phone: (701) 328 – 4831    Email: [smcnichols@nd.gov](mailto:smcnichols@nd.gov)

Denise Martino - Fraud Waste & Abuse/Managed Care Oversight Administrator

Phone: (701) 328 – 4024    Email: [dmmartino@nd.gov](mailto:dmmartino@nd.gov)

# PROGRAM INTEGRITY TEAM CONTACT INFORMATION - CONTINUED

Gale Schuchard – Compliance Technician

Phone: (701) 328 – 2334    Email: [gjschuchard@nd.gov](mailto:gjschuchard@nd.gov)

Missy Rosales – SURS Analyst

Phone: (701) 328 – 3507    Email: [melrosales@nd.gov](mailto:melrosales@nd.gov)

Sarah Schaaf – FWA Analyst

Phone: (701) 328 – 4682    Email: [slschaaf@nd.gov](mailto:slschaaf@nd.gov)

# PROGRAM INTEGRITY CONTACT INFORMATION – FRAUD, WASTE AND ABUSE

General fraud email: [medicaidfraud@nd.gov](mailto:medicaidfraud@nd.gov)

Phone number: 1-701-328-4024 OR 1-800-755-2604 – select option 3 to report  
Medicaid fraud

Suspected fraud form (SFN 20) submission link:

<https://apps.nd.gov/itd/recmgmt/rm/stFrm/eforms/Doc/sfn00020.pdf>

# PROGRAM INTEGRITY CONTACT INFORMATION – PROVIDER ENROLLMENT

General provider enrollment email: [NDMedicaidEnrollment@Noridian.com](mailto:NDMedicaidEnrollment@Noridian.com)

# PROGRAM INTEGRITY CONTACT INFORMATION – PROVIDER AUDIT

General audit email: [auditresponse@nd.gov](mailto:auditresponse@nd.gov)

CLOSING

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# FUTURE DATES

October 2022: the 26th at 2:30-3:30 PM and the 27th at 9:30-10:30 AM

2023 dates:

- Feb 22 from 1:30 to 2:30
- Feb 23 from 8:30 to 9:30
- June 28 from 1:30 to 2:30
- June 29 from 8:30 to 9:30
- Oct 25 from 1:30 to 2:30
- Oct 26 from 8:30 to 9:30

# AS WE CLOSE...

- Questions
- Comments
- Ideas for potential future topics

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