Office of Medicaid Inspector General

Annual Report
October 1, 2013

Jay Shue, Medicaid Inspector General

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Introduction

A. Mission Statement of the Arkansas Medicaid Inspector General

Pursuant to Ark. Code Ann. §20-77-2105, the Office of the Medicaid Inspector General, (OMIG) shall:

(1) Prevent, detect, and investigate fraud and abuse within the medical assistance program;
(2) Refer appropriate cases for criminal prosecution;
(3) Recover improperly expended medical assistance funds;
(4) Audit medical assistance program functions; and
(5) Establish a medical assistance program fraud and abuse prevention.

B. Creation and Statutory Authority

On April 23, 2013, Act 1499 was signed into law creating the Arkansas Medicaid Inspector General's Office. The legislative purpose of the law was to create a new state agency in order to consolidate staff and other Medicaid fraud detection prevention and recovery functions into a single office, create a more efficient and accountable structure, reorganize and streamline the state's process for detecting and combating Medicaid fraud and abuse, and maximize the recovery of improper Medicaid payments. *See Ark. Code Ann. §20-77-2101.* Act 1499 contained an emergency clause authorizing July 1, 2013, as the agency starting date.

On June 19, 2013, Governor Mike Beebe appointed Jay Shue to be Arkansas' first Medicaid Inspector General. Before accepting the appointment, Mr. Shue spent six years as the director of the Arkansas Attorney General's Medicaid Fraud Control Unit. Mr. Shue also has approximately ten years of experience as a prosecutor for the state of Arkansas.

With the creation of the Medicaid Inspector General's Office, the Program Integrity Unit of the Arkansas Department of Human Services, Division of Medicaid Services, and its staff were transferred to the supervision and direction of the Arkansas Medicaid Inspector General. The program integrity functions as required by the Center for Medicaid Services (CMS) under 42

CFR §455 *et al*. All states that participate in the federal Medicaid program are required to maintain a program integrity function to ensure compliance, efficiency, and accountability within the Medicaid Program by detecting and preventing fraud, waste, and abuse. The Medicaid Inspector General's office fulfills that federal requirement.

Pursuant to Ark. Code Ann. §20-77-2106, the Office of the Medicaid Inspector General shall conduct and supervise activities to prevent, detect and investigate medical assistance program fraud and abuse. Additionally, Ark. Code Ann. §20-77-2109, requires the Office of the Medicaid Inspector General to submit to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, Division of Legislative Audit, Legislative Council, and the Attorney General a report summarizing the activities during the preceding calendar year.

Annual Report Statistics and Information

This annual report contains information from the following time periods:

(1) Fiscal year 2013 (July 1, 2012 through June 30, 2013), for the time period when the Program Integrity division was supervised and directed by the Department of Human Services (DHS).

(2) Fiscal year 2014 (July 1, 2013 to current), for statistics, data and information from the Office of the Medicaid Inspector General.

Recoveries/Recoupment

- Fiscal year 2013 recoveries of overpayments by Program Integrity Unit $1,137,406
- Fiscal year 2013 questioned overpayments by Program Integrity Unit
    - Original questioned costs for audit reviews $3,896,248
    - Adjusted questioned costs for audit reconsiderations $1,057,716

OMIG – Recoveries and Recoupments from the 2014 fiscal year

- Fiscal year 2014 recoveries of overpayments by OMIG $277,475
- Fiscal year 2014 recoupments submitted to DHS Accounts Receivable $309,146

Audits and Investigations

Fiscal year 2013 statistics for the Program Integrity Unit

- Audits/Reviews
    - Onsite Audits/Reviews performed by Program Integrity 134

- Desk Reviews utilizing Health Information Technology 36
- Desk Reviews – DAAS/DDS Duplicate Payments 371
- HCBS Waiver Referral Investigations 15

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Fiscal year 2014 statistics for the Office of Medicaid Inspector General

- Audits/Reviews
  - Onsite Audits/Reviews performed by Program Integrity 21
  - Desk Reviews utilizing Health Information Technology 51
  - Desk Reviews – DAAS/DDS Duplicate Payments 59
  - HCBS Waiver Referral Investigations 5

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Administrative Actions

Pursuant to Ark. Code Ann. §20-77-2106 the OMIG may pursue civil and administrative actions against an individual or entity that engages in fraud, abuse or illegal or improper acts within the medical assistance program. Administrative Actions include a number of provider sanctions that result from audits, investigations and reviews by the Program Integrity Unit.

Fiscal year 2013 – Program Integrity Unit statistics

- Provider suspensions from the Medicaid Program 31
- Provider terminations from the Medicaid Program 1
- Provider exclusions from the Medicaid Program 10
- Provider placements on pre-pay status in the Medicaid Program 1

Fiscal year 2014 OMIG statistics

- Provider suspensions from the Medicaid Program 4

- Provider terminations from the Medicaid Program 0
- Provider exclusions from the Medicaid Program 0
- Provider placements on pre-pay status in the Medicaid Program 2

Administrative Appeals

Administrative Appeals occur when Medicaid providers request appeals of the findings of the Program Integrity Unit or OMIG after an audit, review or investigation occurs. Medicaid Providers are entitled to appeal all findings pursuant to the Arkansas Medicaid Fairness Act, Ark. Code Ann, §20-77-1702, and pursuant to the Arkansas Medicaid Manual §160.00 et seq.

- Fiscal year 2013 Provider Appeal Requests 27
- Fiscal year 2013 Provider appeals Open/Pending per DHS 32

- Fiscal year 2014 Provider Appeal Requests 8
- Total amount of Provider appeals Open/Pending per OMIG 40

The OMIG is providing assistance and support for all pending appeals and cases involving program integrity audits, reviews, and investigations that remain assigned to DHS' Office of Policy and Legal Services (OPLS).

Civil Actions

The establishment of the Office of Medicaid Inspector General creates powers and duties for the OMIG. These include pursuing civil and administrative enforcement actions against an individual or entity that engages in fraud, abuse, or illegal improper acts within the medical assistance program. The OMIG will have the authority to initiate and maintain actions for civil recovery including the seizure of property and assets connected with improper payments and entering into civil settlements. *See Ark. Code Ann. 20-77-2106(6).* The OMIG anticipates

pursuing past due recoupments and collections and taking a more aggressive position with future recoupments and collections.

Referrals of Fraud amd Prosecutions

A. Arkansas Attorney General's Medicaid Fraud Control Unit

Pursuant to Ark. Code Ann. §20-77-2106 the Medicaid Inspector General shall work with the Medicaid Fraud Control Unit (MFCU), of the Office of the Arkansas Attorney General, prosecuting attorneys and law enforcement agencies. The Medicaid Inspector General refers audit investigations to MFCU when there is a credible allegation of fraud. *See 42 CFR §455.23*.

- In Fiscal year 2013, seven Medicaid provider investigations were referred for consideration to the Medicaid Fraud Control Unit of the Attorney General's Office.

- In Fiscal year 2014, four Medicaid provider investigations were referred for considerations to the Medicaid Fraud Control Unit of the Attorney General's Office.

B. Other Suspected Fraud Referrals

In addition to referrals of suspected fraud to the Arkansas Attorney General's Office, the OMIG shall also make referrals and coordinate efforts with other federal, state and local law enforcement agencies. *See Ark. Code Ann. §20-77-2106(2)*. In the last two years, the Program Integrity Unit has referred two Medicaid providers to the U.S. Attorney's Office for investigation and possible criminal prosecution. The OMIG will continue to coordinate efforts and make referrals to the appropriate law enforcement agencies when criminal fraud is suspected or uncovered during an audit, investigation or reporting episode.

C. Referrals to Licensure Boards

Pursuant to Ark. Code Ann. §20-77-2106, the Medicaid Inspector General shall refer information and evidence to regulatory agencies and licensure boards. Historically, this has not been an independent function of the Program Integrity Unit. The OMIG will make referrals to appropriate regulatory agencies and licensure boards this year.

D. Referral of Beneficiary Fraud for Prosecution

Pursuant to Ark. Code Ann. §20-77-2106, the Medicaid Inspector General shall make available to appropriate law enforcement information and evidence relating to suspected criminal acts. Historically, this has not been an independent function of the Program Integrity Unit. The OMIG will make referrals and provide information and evidence of suspected beneficiary fraud to appropriate law enforcement agencies and state prosecuting attorney's offices.

Administrative and Education Activities

Pursuant to Ark. Code Ann. §20-77-2106, the Office of the Medicaid Inspector General shall establish the following:

(1) Develop protocols to facilitate the efficient self-disclosure for providers
(2) Implement and maintain a hotline for reporting complaints regarding fraud waste and abuse
(3) Implement and maintain a website
(4) Develop a provider compliance program and make the program and guidelines available on its website.

A. OMIG Website Prototype and Features

In October 2013, the Office of Medicaid Inspector General will launch the agency website. The OMIG website will include all information required under the statutory duties and powers of Ark. Code Ann. §20-77-2101 et al.

- The website URL will be: OMIG.Arkansas.gov
- The OMIG hotline # will be 1-855-5AR-OMIG (1-855-527-6644)

Below is a prototype of the OMIG website that is currently being designed and prepared by Information Network of Arkansas (INA). The website construction and design is being provided by grant funds made available to Arkansas state agencies.

Features of OMIG website

- Online Referral and Fraud complaint form
- Medicaid Fraud Hotline information
- Exclusion list of Medicaid Providers
- Provider Enrollment information
- Provider Self-Disclosure Protocol
- Provider Compliance Program
- News about the Office of the Medicaid Inspector General
- Links to other federal and state agencies or resources
- Education on Medicaid fraud, waste and abuse

B. OMIG Provider Education

- The OMIG has made a concentrated effort to contact Arkansas Provider associations and organizations. The OMIG has attended meetings and scheduled presentations with a number of Medicaid provider organizations, including: Arkansas Residential Assisted Living Association; Arkansas Hospital Association; Arkansas Mental Health Association; Arkansas State Medical Board; and the Arkansas Developmental Disabilities Association. The OMIG is available to any Medicaid providers or associations that have questions or concerns going forward.
- The Office of the Medicaid Inspector General will implement a Medicaid provider education and training plan through the development of presentations and website and webinar training initiatives. Provider education materials and information will also be available upon request and providers will receive education and information through audit reviews, corrective action plans, and observations.
- On July 31, 2013, the Office of Medicaid Inspector General, in conjunction with Arkansas' Recovery Audit Contract (RAC) contractor, Health Management Systems, Inc. (HMS), conducted a webinar for the Arkansas Hospital Association regarding implementation and processes of RAC audits. The webinar had 46 registered participant hospitals.

C. Other OMIG Functions and Duties

- OMIG participates in quarterly meetings with the Arkansas Attorney General's Medicaid Fraud Control Unit.
- OMIG continues participating in the Centers for Medicare and Medicaid Services (CMS) Medi/Medi program which allows the OMIG to analyze dually eligible beneficiary claims, as well as perform other improper payment analysis from the prospective of both Medicare and Medicaid. OMIG also worked with Medi/Medi contractors on various projects in fiscal year 2013 and participates in quarterly meetings with the Medi/Medi Task Force which includes local and federal law enforcement
- OMIG participates in Regional Task Force calls with CMS Center for Program Integrity (CPI) and other state Program Integrity Units and Medicaid Inspector Generals
- OMIG serves as the lead agency in the Medicaid and Chip Business Information Solutions (MACBIS) Pilot Project. The pilot project is aimed at streamlining a uniform Medicaid data set. Arkansas was one of ten states invited to participate in this pilot program. OMIG, in collaboration with the Division of Medical Services, will implement the streamlined data set by January 2014.

D. OMIG Personnel Education and Training

- On July 8-9, 2013, staff members of the Office of Medicaid Inspector General participated in educational training sessions with staff from MFCU.
- Throughout the year, staff and personnel are encouraged to register and attend federally-funded education courses and classes at the Medicaid Integrity Institute which is located in Columbia, South Carolina. These courses are provided to qualified state employees and are 100% funded by the federal government.
- The OMIG is currently reviewing policies and manuals in order to draft an employee manual which adequately addresses work protocols and job expectations.

OMIG Performance Narrative

Act 1499 of the 2013 Arkansas Legislative session marked a significant change in the regulation and enforcement of the Arkansas Medicaid program. The creation of the Office of the Medicaid Inspector General should provide new opportunities for policy implementation and regulation in order to detect fraud, waste, and abuse in medical assistance programs.

- **OMIG Personnel** - 31 former DHS/DMS positions were transferred under the authority of the OMIG. During the first few months, existing personnel have been evaluated to determine strengths and weaknesses. A number of personnel have been reassigned to address new agency functions that were previously covered by DHS such as: Human Resources; general accounting; purchasing; AASIS certification; and administrative support.

  During the evaluations, immediate concerns arose regarding the level or training and the lack of established protocols and procedures for audits, reviews, reconsiderations, and quality assurance. In the past, personnel turnover has been problematic for the Program Integrity Unit. The new administration is working to establish employee manuals, work protocols, audit and investigation procedures to provide guidance and to create a consistent working environment where both administration and employees understand job descriptions and expectations.
- **Budget and Appropriation Concerns** - After consulting with DHS and the Department of Finance and Administration, it was determined that the 2014 budget appropriation will not adequately fund the projected maintenance and operating expenses, and payroll for the operating costs of the OMIG. Additional operating expenses and start-up costs are anticipated in order to adequately operate the OMIG as an independent state agency.

  Due to the existing budget concerns, OMIG has delayed hiring a number of personnel and has delayed in implementing a number of initiatives and decisions.
- **OMIG Audits and Recoupments** - The OMIG is concerned that previous audits, reviews and investigative reports contain errors and overall improvement in reporting and calculations is necessary moving forward. Due to recent changes in the Arkansas Medicaid Fairness Act, *Ark. Code Ann §20-77-1702*, the OMIG will be held to higher standards and

prompt reporting requirements. OMIG is working to create protocols and procedures to reduce mistakes and errors in audit, review, and investigation processes and reporting.

The OMIG will coordinate with DHS to develop a plan and strategy to ensure that Medicaid providers are complying with payment orders and negotiated settlements. The OMIG will also coordinate with DHS to seek recoupment funds from Medicaid providers that have not made arrangements to address existing recoupment balances.

- **OMIG Office Location** – Due to budget constraints, the majority of the OMIG staff and personnel continue to operate at the DHS Donaghy Plaza. OMIG is preparing a preliminary Request for Procurement and is working with DFA and DHS to relocate the OMIG personnel in a new location once budget concerns are addressed. OMIG administration is currently operating in a temporary location near the DHS Donaghy Plaza.
- **Providers Resources** - OMIG is working to establish working relationships with providers and provider associations. It is anticipated that the OMIG website will provide Medicaid providers information regarding audit protocols, self-disclosure programs, model compliance programs and contact information. Medicaid providers will have access to information and resources that were either not previously available to them or difficult to obtain.
- **Provider Self-Disclosure** - The OMIG hopes to form partnerships with Medicaid providers through the self-disclosure program. It is anticipated that the Provider Self-Disclosure Program will enhance OMIG's overall efforts to eliminate fraud, waste and abuse while simultaneously offering Medicaid Providers a mechanism or method to reduce their legal and financial exposure.

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