



Medicaid and Public Assistance Fraud Strike Force

Minutes of February 25, 2011

The Capitol, Room 301C
Tallahassee, Florida

Call to Order

The first meeting of the Medicaid and Public Assistance Fraud Strike Force was called to order by Chairman Atwater at 1:00 p.m. on February 25, 2011, in room 301C of the Capitol, Tallahassee, Florida. Roll was called by Gloria Strickland. The following members were in attendance: Chief Financial Officer and Chairman Jeff Atwater, Attorney General and Vice Chair Pam Bondi, Department of Law Enforcement Commissioner Gerald Bailey, Agency for Health Care Administration Interim Secretary Liz Dudek, Children and Family Services Secretary David Wilkins, Palm Beach County Sheriff Ric Bradshaw, Hillsborough County Sheriff David Gee, Miami-Dade Chief of Police Juan Santana and Hollywood Chief of Police Chadwick Wagner. Department of Health Deputy Secretary Kim Berfield arrived after roll call and Miami-Dade Office of the State Attorney Katherine Fernandez Rundle joined shortly thereafter via teleconference.

Welcome

Chairman Atwater welcomed everyone and called on Attorney General and Vice Chair Bondi to speak. Vice Chair Bondi thanked Chairman Atwater for assembling the Strike Force, and thanked the members for attending. Vice Chair Bondi told the members that she looked forward to working with them.

Administrative Items

Chairman Atwater:

The Chairman entertained a motion to adopt Robert's Rules of Order as the Parliamentary Procedures for the Strike Force. Sheriff Gee made a motion, which was seconded by Sheriff Bradshaw. The motion was adopted without objection.

Chairman Atwater provided a brief overview of the Strike Force meeting agenda.

Chairman Atwater reminded the members that Chapter 624 Section 351, Florida Statutes, created the Strike Force and the Statute requires at least four meetings per year. A tentative date of May 16, 2011, from 1:00 to 5:00 p.m., for the next meeting was proposed.

Chairman's Opening Statement

Chairman Atwater:

The Chairman thanked everyone for their time and commitment to spotlighting the challenges and opportunities to improve Florida's Medicaid and public assistance programs.

While recognizing and acknowledging the scope of the challenges before the Strike Force, it is incumbent upon the members and their colleagues throughout their respective organizations to begin to offer credible solutions to the issues that Medicaid and public assistance face. The Legislature, in part, created the Strike Force to increase the coordination and effectiveness of programs and initiatives that work to more aggressively prevent, detect and prosecute Medicaid and public assistance fraud. The primary impetus for creating the Strike Force is to defeat the fraud that is bleeding our State's budget. Florida Medicaid is the fourth largest program in the country, covering more than 2.9 million people. The number of people covered by Florida Medicaid has increased by thirty-three percent in the past three years. It now represents twenty-five percent of our State budget, or \$20 billion, as opposed to the \$15 billion it cost in 2007-2008. That is a forty percent increase in expenditures in the last three years, and State economists predict that Medicaid will be the single largest cost-driver in next year's budget. Medicaid fraud is a key factor in this growth, accounting for as much as \$2 billion in costs annually due to fraud, waste and abuse.

Introductions

Gerald Bailey, Commissioner, Florida Department of Law Enforcement (FDLE):

Commissioner Bailey introduced himself and Mark Perez, Special Agent in Charge. Commissioner Bailey informed the members that FDLE is a statewide law enforcement agency, comprised of investigators who operate through regional operation centers, which are located in seven major metropolitan areas. FDLE also provides infrastructure support, data bases and other systems to other agencies which conduct investigations around the state. During the decade ending January of 2011, FDLE had been the umbrella agency for the State Public Assistance Fraud Operations, but Public Assistance Fraud (PAF) is now housed within the Department of Financial Services (DFS). PAF conducted

2,200 fraud investigations last year, and saved Floridians approximately \$16 million in fraudulent benefits. PAF conducted several high profile investigations involving individuals and retail outlets that traffic in food stamp benefits. FDLE routinely works with DFS and the Attorney General's office on a variety of fraud issues. Their focus now is on the financial crimes and those crimes where the State of Florida is the victim.

Liz Dudek, Interim Secretary, Agency for Health Care Administration (AHCA)

Interim Secretary Dudek introduced herself, Mike Blackburn, (Bureau Chief of AHCA's Medicaid Program Integrity Unit, and the primary contact for AHCA), and Kelly Bennett, (with AHCA's Medicaid Office, and a liaison with various offices.)

AHCA handles the licensure of over 30,000 facilities from which Medicaid recipients may receive services. AHCA regulates and maintains provider agreements to approximately 100,000 providers, 70,000 of which are active providers. AHCA vigilantly acts to avoid any fraud from occurring from the start. It identifies fraud as quickly as possible, and refers it to the appropriate agencies with which they work. Over the years, AHCA has placed additional emphasis on fraud and abuse, as mandated in 2009 with Senate Bill 1986. This bill allowed AHCA to increase the ability to identify and stop fraud, and to remove the providers who perpetrated fraud from the system. AHCA has also implemented various pilot programs in Miami-Dade specific to home health care.

David Wilkins, Secretary, Department of Children and Family Services (DCF)

Secretary Wilkins introduced himself and described DCF as the "front end" of the Medicaid program. DCF handles the initial eligibility determination for those individuals who are eligible to receive public assistance services in the form of food stamps, Medicaid or cash assistance. Approximately four million people receive one or more of those services today. DCF also has an organization of approximately 160 individuals who look at the ongoing payment and distribution process of those services, and who identify cases that need further investigation. Last year, approximately 70,000 of those cases were identified. Further review could involve investigating system overpayment, underpayment or potential fraud. Following this analysis, selected cases are sent for further investigation.

Kim Berfield, Deputy Secretary, Department of Health (DOH)

Deputy Secretary Berfield introduced herself and explained that DOH's Medical Quality Assurance bureau licenses approximately a million licensees/practitioners in forty (40) different professional groups on an annual basis in the State of Florida. Not all licensees are Medicaid providers. Upon a determination of fraud or abuse by a licensee/practitioner under contract with AHCA, DOH initiates action against the offending licensee/practitioner's license.

Katherine Fernandez Rundle, State Attorney, Miami-Dade

State Attorney Katherine Fernandez Rundle introduced herself and described her prosecutorial role in Medicaid and public assistance fraud cases that are presented to the Miami-Dade State Attorney's office for prosecution. Traditionally, those cases are handled by the Miami Dade State Attorney's Economic Crimes Unit. In the last several years, the State Attorney's Office has developed a model for prosecution of insurance fraud. This model was independently funded through the Division of Insurance Fraud, and has now been replicated for Workers' Compensation fraud cases. While no cases have been presented on Medicaid fraud, State Attorney Rundle thought, with the Chairman's and Strike Force's leadership, the model could be replicated again for Medicaid and public assistance fraud, if funding could be provided.

Ric Bradshaw, Sheriff of Palm Beach County

Sheriff Ric Bradshaw introduced himself and stated that the Palm Beach County Sheriff's office has a full-time Public Assistance Fraud Unit and has been involved with numerous investigations. The Sheriff's office has worked with the Florida Department of Law Enforcement (FDLE) on food stamp investigations, and has investigated housing fraud, mortgage fraud and embezzlement. Sheriff Bradshaw is in agreement with State Attorney Rundle that the model that Medicaid Fraud units would use would not be that different than one used for housing, food stamps, etc.. Also, the State Attorney in Palm Beach County is willing to participate in prosecutions for Medicaid fraud.

David Gee, Sheriff of Hillsborough County

Sheriff David Gee introduced himself and Major Donna Luszczynski, who handles investigation of Personal Injury Protection (PIP) fraud and fraud relation to pain clinics. Cases come to the Hillsborough County Sheriff's office from a variety of sources, such as jails, and often involve inmate fraud. Local law enforcement across the state can help identify trends, and could be a great resource for fighting fraud if properly trained to recognize activities indicating actual or potential fraud.

Juan Santana, Chief of Police, City of Miami-Dade

Chief Juan Santana, introduced himself and stated that, currently, the Miami-Dade Police Department does not have a unit dedicated to Medicaid investigations. The Miami-Dade Police Department does participate in types of investigations such as those conducted by Task Forces whose efforts are concentrated on health care related criminal conduct. The Department investigates complaints concerning durable medical equipment (DME) companies, which are companies that flourish in South Dade. Many of the Department's investigations have led to the discovery that the DME companies

are actually money laundering organizations paid by Medicaid and Medicare for services that were not performed. The Miami-Dade Police Department has successfully investigated some of those cases, but, just as with other law enforcement agencies, limited resources have prevented them from concentrating their efforts on these issues.

Chadwick Wagner, Chief of Police, City of Hollywood

Chief Chadwick Wagner introduced himself and stated that he believes that local municipality police departments can bring much to the table in this area. He has reached out to the Broward County Police Chiefs and found that none of them have any involvement in the area either. After speaking with the Broward Police Chiefs, he believes that these branches of local law enforcement can be partners in detecting and investigating Medicaid Fraud. The local municipalities have been effective in other areas, as when Hollywood's Police Department dedicated resources to successfully investigate "pill mills" and homestead exemption fraud. Over the past year, the City of Hollywood alone recovered hundreds of thousands of dollars for homestead exemption fraud.

Vice Chair General Bondi explained the Attorney General's role in this process. The Attorney General's Medicaid Fraud Control Unit (MFCU) investigates and prosecutes providers who intentionally defraud the Medicaid program. Medicaid fraud costs taxpayers millions every year, and since 2007, the Attorney General's Office has recovered more than \$490 million. One complex type of case pursued by the Attorney General's office is called *qui tam* cases. An example of a *qui tam* case is when a pharmaceutical company tries to manipulate prices of certain drugs. Vice Chair General Bondi introduced David Lewis, Chief of the Medicaid Fraud Control Unit.

Chairman Atwater introduced Robin Westcott, Acting Deputy Commissioner for Property and Casualty, Office of Insurance Regulation (OIR), as the new Executive Director for the Medicaid and Public Assistance Fraud Strike Force.

Presentations

Presentations were then made to the Strike Force by representatives from the member agencies.

Jennifer Lange, Director of ACCESS Program (Automated Community Connection to Economic Self Sufficiency), Department of Children and Families Services

- ACCESS is the eligibility determination arm for food assistance, cash assistance and Medicaid. They determine eligibility for those programs collectively through one application, and eligibility depends on the applicant's needs.
- Mechanisms and activities are in place to prevent, detect and prosecute fraud.
- ACCESS receives data exchanges from many other agencies and data sources, such as the Social Security Administration (SSA), Agency for Work Force Innovation (AWI) and the Internal Revenue Service (IRS).
- The data is evaluated by eligibility staff to confirm that the information provided on the application and in the interview is accurate.
- A link on DCF's ACCESS website allows the general public to report any wrongdoing. Those tips are investigated.
- Should it appear that the applicant did receive benefits improperly; the case is referred to the Department of Children and Family's Benefit Recovery Team. If it appears to be actual fraud, and not simply a mistake, it is referred to the Public Assistance Fraud Section for investigation and possible prosecution.
- With or without prosecution, the Benefit Recovery staff works to recoup the money, either through deductions from a current benefit, or as a cash payment, or, when that person is no longer an ACCESS customer, through a contracted collection agency.
- Approximately 3 million people receive food stamp assistance, 2.9 million people receive Medicaid, (including those who are Supplemental Security Income [SSI] eligible) and 106,000 people receive cash.
- This last Federal fiscal year, ACCESS staff referred 73,000 cases to the Benefit Recovery Team, who determined that 30,000 of those were legitimate claims for which people owed money back to the State.
- The value of those claims, whether caused by fraud or mistake, was \$28 million. Last year, the agency collected \$17 million. Of that total, \$3.4 million were attributed to fraud.

Recommendations for improvement:

- Better and faster employer data concerning employee identity and wages.
- Implementation of the Treasury Offset Program to recoup overpayments through an offset of income tax.
- Ability to garnish state employee wages for recoupment of overpayments.

- An increase of both the number of staff who determine eligibility and the number of investigators would allow ACCESS to spend more time on each case, which would prevent more fraud perpetrators from entering the system.

Liz Dudek, Interim Secretary, Agency for Health Care Administration (AHCA)

- AHCA has stringent background screening processes, and looks at the identity of the provider, their financial ability to operate and who controls their interest.
- AHCA licenses hospitals, nursing homes, assisted living facilities, intermediate care facilities for the mentally retarded, home health agencies and pain clinics. AHCA co-regulates managed care plans and provider service networks which may be providers of service to Medicaid. Once licensed, a provider can then apply to be a Medicaid or Medicare provider.
- There are certain types of providers such as home health care agencies and durable medical equipment companies that are more inclined to have potential fraud.
- AHCA has developed a pilot program in Miami-Dade that telephonically tracked the home health services provided. This program resulted in a reduction in home health care visits by almost sixty-one (61) percent.

Mike Blackburn, Director of Medicaid Program Integrity Unit (MPI)

- AHCA processes 1,400 applications per month, generally from individual providers.

Recommendations for improvement:

- Automation of federal checks and verification with DOH on licensing, which would include a “wrap back” system, where FDLE could notify AHCA as soon as a conviction occurs.
- Automated notification at the time of arrest for health care fraud. FDLE has a system in place for a retained print program that would provide immediate notification, and AHCA is working on getting availability.
- Home health care providers, both licensed and unlicensed, durable medical equipment companies, unskilled nurses, home health aides and some of the waiver programs are the most vulnerable to fraud
- Funding for advanced detection systems using data mining techniques for the identification of fraud.
- Confirmation of a recipient’s visit to a provider by technology such as biometric thumb print or iris scan. (The Federal government would pay fifty percent (50%) of the cost.)

Kim Berfield, Deputy Secretary, Department of Health (DOH)

- DOH licenses forty (40) different professional groups and about one million licensees throughout the state. Not all are Medicaid providers.

- If there is a violation of law by a Medicaid provider that is also a licensee of DOH, DOH files an administrative order, conducts an investigation, and reports back to the specific Board for the designated discipline of the licensee. The Board determines any actions which should be taken, and a hearing follows.
- From last year through January 31, 2011, DOH had 257 cases, however, only six (6) of those were Medicaid cases.
- Due to Senate Bill 1986, DOH is required to post information on DOH's website concerning practitioners who have had their licenses revoked and DOH now has the authority to deny a license for a prior conviction.

Recommendations for improvement:

- Receive conviction information from the Clerks of Court in a more efficient manner.

Randy Burkhalter, Director, Public Assistance Fraud Program (PAF), Department of Financial Services

- PAF has sixty-three (63) staff members statewide, in ten (10) locations.
- PAF has data sharing agreement with AWI for wage information, DOH for deceased persons, Department of Corrections (DOC) for prison data and local sheriff's offices for incarceration information.
- Last year, PAF received 33,000 referrals, and this year they are on track for 40,000 referrals.
- PAF anticipates 6,000 to 8,000 cases this year will be flagged for investigation, but, due to insufficient manpower, PAF may be able to investigate only 2,000.
- Criminal cases go to the State Attorney for prosecution. Cases that are not prosecuted are referred back to DCF, and processed for possible recoupment.
- USDA has designated PAF as the State Law Enforcement Bureau which handles food stamp trafficking. PAF supports state, local and Federal law enforcement in that project.

Recommendations for improvement:

- More investigators.
- Explore any and all opportunities for better access to data, and better data matching.

David Lewis, Director, Medicaid Fraud Control Unit (MFCU), Office of Attorney General

- MFCU in Florida, started in 1982, is statutorily mandated and certified by the U.S. Department of Health and Human Services. MFCU was transferred from the Auditor General's Office to the Office of Attorney General in 1994.
- MFCU has 162 full-time employees, and is funded through a joint state and federal funding with a grant from U.S. Department of Health and

Human Services, Office of the Inspector General, who oversees MFCU with respect to the Federal financial participation.

- MFCU has three (3) regions; the northern region headquartered in Tallahassee, which also serves as statewide headquarters; the central region, headquartered in Tampa; and the southern region headquartered in Miami. MFCU also has eight (8) field offices across the state
- During the 2009 to 2010 fiscal year, MFCU looked into 1,866 complaints. 1,035 were for fraud and 831 were for patient abuse, neglect and exploitation. Of those complaints, MFCU opened 388 cases. Cases opened involved home and community based waiver services (a variety of in-home care services), pharmaceutical manufacturers (*qui tam* cases), physicians, durable medical equipment (DME) providers and, lastly, community behavioral health providers.
- The bulk of the recovery was from *qui tam* cases, which are brought to MFCU pursuant to the Florida False Claims Act. *Qui tam* cases are cases against pharmaceutical companies for manipulating drug pricing, which causes false claims to be filed for the payment of pharmaceutical products. Last fiscal year, MFCU recovered \$144 million dollars.

Recommendations for improvement

- Configuration of agencies to better share information with each other as well as inter-departmentally.

Conclusion

Chairman Atwater scheduled the next meeting of the Strike Force to be held on May 16, 2011, and stated that any members having a conflict in schedule for future meetings may attend via teleconference.

Meeting Adjourned