



State of Utah

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Governor

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Lieutenant Governor

Utah Department of Health

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December 1, 2011

Jonathan Ball, Director
Office of the Legislative Fiscal Analyst
State Capitol Complex
House Building, Suite W310
Salt Lake City, UT 84114

Dear Mr. Ball:

As required by intent language in Senate Bill 2 (2011), Item 80, I am reporting on specific plans of action or reasons for not acting on the 34 recommendations from State agencies contained in the 2011 issue brief entitled Medicaid Survey Results. This report includes responses from the Department of Health, the Department of Human Services, the Department of Workforce Services, and the Medicaid Fraud Control Unit. In addition, the newly created Office of Inspector General for Medicaid Services also participated in this process because some of the recommendations focused on responsibilities that are now located in that office.

A team consisting of staff from each of these organizations met to identify which agency would take the lead on each recommendation. The attached grid lists the survey recommendation, the implementation status, the lead agency, and provides notes on the status. In addition, some plans of action required more space than what was available on the grid and so those plans are attached as separate documents.

As shown in the grid, state agencies have implemented 9 of the 34 recommendations from the survey. An additional 24 recommendations are in process of being implemented (5 of which would require legislative action to be fully implemented). Lastly, the team identified 1 recommendation that has not been acted on because it would first require a change in statute in order to be implemented.



We hope this report provides your office and the Legislature with the information needed to provide oversight of these program activities.

Sincerely,

A handwritten signature in black ink that reads "Nathan Checketts for MH". The signature is written in a cursive style.

Michael Hales
Deputy Director, Department of Health

Enclosures: Medicaid Survey Responses Implementation Tracking
Medicaid Survey Responses Implementation Plans
Optimization Commission Update - Coordinate UDOH-DWS Policy - June 2011
Optimization Commission Update - Coordinate UDOH-DWS Policy - Oct 2011

Medicaid Survey Responses Implementation Tracking

December 1, 2011

State Agency Recommendations

	Recommendation	Implemented	In Process	Requires Legislative Action	Lead Agency	Implementation Notes
1	Authorize the use of TEFRA liens			X	DHS	SB 50 (2008) would have implemented this change but it did not pass. A change in law is required to implement this recommendation.
2	Improve coordination of financial reporting	X			DOH	In Dec. 2010, DOH issued the Medicaid 2010 Annual Report which provided a break out of all Medicaid expenditures across the various agencies. The report can be found at www.health.utah.gov/medicaid . By Dec. 31, 2011, DOH will release the Medicaid 2011 Annual Report.
3	Expand number served on HCBS waivers		X	X	DOH	In FY 2011, DOH enrolled 100 more clients on the New Choices Waiver than had been on the program the previous year. DOH's FY 2012 budget was reduced \$500,000 in total funds based on expectations of continued growth of this program. Most other HCBS waivers have waiting lists that are limited based on available funding. Additional funding would be required if enrollment is to be expanded in those waivers.
4	Limit certain expensive services in DSPD HCBS waivers	X			DHS	Eliminated intensive rate for residential services (RHI), replaced existing ratios with standard rate for residential services, and reduced single person programs

5	Replace current MMIS		X	X	DOH	DOH submits quarterly reports on the project to replace MMIS. The last quarterly report was submitted on September 30, 2011. The Legislature has partially funded this project with \$6 million in one-time funding. Additional funding will be needed to fully fund the project.
6	Eligibility policy coordination		X		DOH	DOH and DWS have prepared two updates for the Governor's optimization committee outlining joint efforts to improve eligibility policy coordination (see attached updates). In addition, DOH provided the Health and Human Services Interim Committee in October 2011 a report on the status of the eligibility determination privatization review required by HB 174 (2011). A written report on the privatization review is scheduled to be released in early 2012.
7	Standardize eligibility review requirements		X		DOH	The existing process already allows DWS eligibility specialists to reauthorize Medicaid eligibility when eligibility is being determined for another program (e.g., Food Stamps). Based on restrictions included in the federal Affordable Care Act, states cannot make the eligibility determination process for Medicaid more restrictive than it was in early 2009. Therefore, the State cannot require earlier review periods for Medicaid than what it had at that time. The reauthorization of multiple programs at the same time is the best option available to the State at this time.
8	Strengthen existing eligibility service model components		X		DWS	See attached implementation plan

9	Report common causes of customer fraud		X		DWS	See attached implementation plan
10	Improve identification of fraud		X		DWS	See attached implementation plan
11	Increase effort to identify TPL - system changes		X		DWS	See attached implementation plan
12	Change payment methodologies to provide incentives for cost savings		X		DOH	As required by SB 180 (2011), on July 1, 2011, DOH submitted a waiver to the federal government to change Medicaid payment methodologies. This waiver can be found at http://health.utah.gov/medicaid/stplan/1115%20Waivers.htm . DOH is in discussions with the federal government regarding which aspects of the waiver will be approved.
13a	Increase capacity for detecting improper claims - prepayment edit	X			DOH	DOH entered into a contract with a vendor, Bloodhound, to provide an additional review of Medicaid claims before they are paid. The vendor has been reviewing claims since December 2010. Cost avoidance for the month of October 2011 was \$226,522.
13b	Increase capacity for detecting improper claims - post payment review		X		OIG	Medi-Medi
14	Determine cost-benefit analysis of each administrative procedure		X		OIG	OIG - Risk based analysis to determine target of performance audits, DOH - 24 hour inpatient rule, administrative rules review
15	Create independent Office of Inspector General	X			OIG	HB 84, office created July 1, 2011
16	Utilize updated technology to review claims and detect abuse and fraud		X		OIG	Medi-Medi, RACs

17	Be more responsive to known abuses in the pharmaceutical industry		X		DOH	In October 2011, staff from DOH pharmacy, DOH claims payment, DOH prior authorization, MFCU, and OIG for Medicaid Services started a quarterly meeting to discuss potential pharmacy abuses that they are seeing in their respective areas. The next meeting is scheduled for January 2012.
18	Increase oversight on claims payment	X			DOH	See attached implementation plan
19a	Increase client awareness about fraud and waste		X		DWS	See attached implementation plan
19b	Explanation of Benefits (EOBs)		X	X	DOH	DOH has limited administrative funding for EOBs. Currently approximately 5% of the 200,000+ Medicaid clients receive an EOB for a given month. Additional administrative funding would be needed to mail EOBs to all clients or to establish an alternative means for the clients to receive that information.
20	Evaluate all Medicaid provider contracts and agreements		X		DOH	DOH has sent its standard Medicaid provider agreement for review by MFCU. DOH will incorporate MFCU feedback into future provider agreements. In regards to the particular Medicaid service mentioned in the recommendation, DOH has issued an RFP for that service and new service requirements have been described in the service contract.
21	Prosecute recipient fraud		X		DWS	See attached implementation plan
22a	Focus on drug costs		X	X	DOH	See attached implementation plan
22b	Focus on long term care costs		X		OIG	Risk assessment based audit plan
23	Focus on problems with coding		X		OIG	Program Integrity, training schedule
24	Provide DWS with opportunity to mitigate reform changes		X		DWS	See attached implementation plan

25	Assess Medicaid program performance		X		DW	See attached implementation plan
26	Implement DWS' existing customer homepage		X		DW	See attached implementation plan
27	Continue to use PDL	X		X	DOH	Implementation of the Preferred Drug List (PDL) has been a huge success. Medicaid savings in FY 2011 were \$27.6 million in total funds. A change in state law would be needed to allow mental health drugs on the Medicaid PDL.
28	Continue ER diversion program	X			DOH	With funding provided by a federal grant, DOH began an ER diversion program that educated Medicaid clients about alternatives to the ER for non-emergent care. The diversion program was able to reduce the number of unnecessary ER visits thereby avoiding Medicaid costs. Although grant funding ended in FY 2011, the Legislature moved state funding from Medicaid services to Medicaid administration in order to continue this important cost avoidance program.

29	Develop additional disease management models		X		DOH	<p>DOH currently operates a Hemophilia Disease Management Program, which saves Medicaid costs by helping clients effectively manage their condition and by allowing the program more control over the appropriate amount of clotting factor needed to control the disease. DOH is pursuing the implementation of other disease management programs through the 1115 Accountable Care Organizations Waiver. The other disease states being added in the 1115 Waiver are:</p> <ul style="list-style-type: none"> • Multiple Sclerosis • Cystic Fibrosis • Rheumatoid Arthritis • Chohn’s Disease • Hepatitis
30	Update Program Integrity systems and technologies		X		OIG	Medi-Medi
31	Don't outsource Program Integrity	X			OIG	Postpayment review RACs
32	Evaluate and change how Utah reimburses pharmacies for medications		X		DOH	See attached implementation plan
33	Provide access to care	X			DOH	DOH will continue its efforts to operate the Medicaid program in an effective and efficient manner. DOH staff conducted provider training around the state in August and September. DOH staff and local health department staff provide client education on Medicaid benefits throughout the year.
34	Empower Program Integrity	X			OIG	HB 84, office created July 1, 2011, approximately \$300,000 General Fund increase in funding

Medicaid Survey Responses Implementation Plans

December 1, 2011

Survey item #8:

“Rather than advancing a different service model, DWS suggests **strengthening some existing service model components** in accordance with our two-year goals, including:

- Secure better online access for customers
- Enhance existing customer homepage
- Enhance telephone options (application and review)
- Enhance online features and services so system and customer can do more
- Educate customers and community partners regarding online services
- Strengthen outreach with community organizations, including hospitals and schools
- Streamline and simplify policy
- Coordinate and communicate policy with state and federal partners”

DWS response:

DWS has made numerous enhancements to myCase with additional enhancements scheduled for the next several months. In addition to viewing benefit amounts, printing forms, viewing online notices, making payments, viewing receipt of documents and chatting with Eligibility Specialists online, customers can now report changes and complete their recertification online. Future enhancements include a new, dynamic online application, third-party access for authorized representatives and a “customer full kit,” which will assist the customer in knowing when all requested verifications have been received by DWS.

Customer and community partner education about online services is an ongoing effort and DWS is committed to communicating new and existing access features as they are released.

Recent telephone changes assist the customer to reach the most qualified Eligibility Specialist to assist with his/her needs. Customers are routed based upon their identified need: interview, status call, general questions, etc.

DWS works closely with DOH in policy development. For example, DWS is currently partnering with DOH to review and simplify policy around calculating customer income, which historically has been our most complex policy.

Survey item #9:

“The **causes of fraud** from FY2006 through FY2010 remained relatively similar and unchanged. Roughly, 50% of fraud cases occurred because the customer did not report an additional household member. Thirty-five percent of fraud cases occurred because the customer did not report income or additional income. Five percent of fraud cases occurred because the customer did not report assets or additional assets. Ten percent of fraud cases occurred because of miscellaneous reasons, such as not residing within the state, resident of a public institution, identity verification, etc.”

DWS response:

DWS has a unit dedicated to investigating allegations of fraud and questionable eligibility elements (household composition, income, etc.). DWS is committed to follow up on all reported and discovered discrepancies. We have information on reporting public assistance fraud on the DWS website (jobs.utah.gov), a fraud report hotline and e-mail address and verbiage on our application and review that details consequences for providing false information. DWS is successful in administratively disqualifying individuals who have committed intentional program violation. For example, from 7/1/11 to 11/2/11, DWS disqualified 205 individuals from continuing food stamp, financial and child care assistance.

DWS is currently exploring adding additional verbiage to additional eREP correspondence about penalties for fraudulent activities. This effort will be prioritized with all eREP projects and has an estimated launch of spring/summer 2012.

Survey item #10:

“To **improve identification of fraud**, DWS could consider enhanced publication of our toll free fraud hotline, issuing more frequent press releases on our criminal prosecutions and providing greater upfront education to the customer concerning potential fraud consequences and penalties.”

DWS response:

DWS has information on reporting public assistance fraud on the DWS website (jobs.utah.gov), a fraud report hotline and e-mail address and verbiage on our application and review that details consequences for providing false information. Starting in 2012, upon the release of our new website design, DWS will use social networking and social media (i.e. Facebook and Twitter) to increase public awareness of public assistance fraud and methods to report fraud.

DWS is currently exploring adding additional verbiage to additional eREP correspondence about penalties for fraudulent activities. This effort will be prioritized with all eREP projects and has an estimated launch of spring/summer 2012.

Survey item #11:

“An **increased effort at identifying third party liability** for Medicaid enrollees. This should be better facilitated by the adoption of the eREP system.”

DWS response:

DWS customers are instructed to enter third-party liability (insurance) information on the online application and online review. Paper copies of the application and review also request this information. DWS has procedures in place for Eligibility Specialists to refer insurance information to Office of Recovery Services to ensure third-party insurance is on file for Medicaid claims. Eligibility Specialists are trained to explore third-party insurance availability when specific events occur and are reported by customers (i.e. the report of a new job).

Survey item #18:

“I support **increasing oversight on claims for payment** and eliminating as much fraud and waste on the front end of the transaction rather than the current “pay and chase” mentality. (where only a small number of claims are reviewed for accuracy and propriety.)”

DOH response:

DOH concurs with MFCU’s statement on the value of stopping improper payments before they go out. DOH has four major system processes in place to screen, review, or edit claims before they are paid.

- 1. The Medicaid claims payment system (MMIS) has edits in place that prevent duplicate payments, enforce quantity limits on certain types of services, ensure paid amounts do not exceed established rates, etc.*
- 2. DOH uses a prepayment edit tool (McKesson) to review claims that are being processed in MMIS. This tool uses screening algorithms to identify improper billing.*
- 3. DOH entered into a contract with a vendor, Bloodhound, to provide an additional review of Medicaid claims before they are paid. The vendor has been reviewing claims since December 2010.*
- 4. The Medicaid managed care payment system (MMCS) has edits in place that ensure managed care plans are billing valid codes, are providing services to eligible individuals, and are not making duplicate payments.*

Survey item #19a:

“I also encourage **increased awareness by Medicaid recipients about fraud and waste** and sending out explanations of benefits and other surveys to allow recipients to be more involved in alerting Medicaid to fraud or waste. Even if a small number of recipients respond and report

fraud, the recovery I believe will be greater than the administrative cost of sending EOBs to recipients.”

DWS response:

DWS has information on reporting public assistance fraud on the DWS website (jobs.utah.gov), a fraud report hotline and e-mail address and verbiage on our application and review that details consequences for providing false information.

DWS is currently exploring adding additional verbiage to additional eREP correspondence about penalties for fraudulent activities. This effort will be prioritized with all eREP projects and has an estimated launch of spring/summer 2012.

DWS and DOH will work together to explore additional and/or stronger verbiage in DOH materials (i.e. Explanation of Benefits pamphlet sent to Medicaid recipients, correspondence coming out of MMCS, etc.) on reporting and consequences of Medicaid fraud and abuse.

Survey item #21:

“I have insufficient knowledge in this area to comment about different service models. However, I do believe that **Medicaid recipients need to be held more accountable and be better informed** of what services they have received via explanations of benefits so that they can assist the program in eliminating fraud and waste. Moreover, recipients who abuse Medicaid by being deceptive in the eligibility process need to be investigated and if necessary, prosecuted. I do not believe we as a State have prosecuted Medicaid recipient fraud as we should. The MFCU is prohibited from prosecuting or investigating recipient fraud under OIG grant rules and by federal law. The only exception is where the recipient acts in concert with a provider to commit fraud against Medicaid. We need increased enforcement in this area. Recipient fraud investigation would reduce money spent on ineligible recipients who are currently obtaining services.”

DWS response:

DWS employs a criminal specialist who identifies fraud cases appropriate for criminal prosecution and works closely with the Attorney General’s office to pursue prosecution. For the period of 1/1/11 to 9/30/11, we have 15 criminal (Medicaid fraud) cases approved by DWS for referral to the AG’s office, five with a specific filing date.

Survey item #22a (Drug Costs):

Drug costs and long term care are two of the most costly aspects of the program and should be a serious area of focus. This involves complex decision making and strong political will to address the strong lobby efforts of the drug industry. Medicaid is one of the largest purchasers of drug products and should be able to leverage this into considerable savings by negotiating with drug

manufacturers for lower prices. I support the preferred drug list concept and expanding that list to address the expensive drugs such as the mental health drugs which are a significant cost to Medicaid.

DOH response:

Implementation of the Preferred Drug List (PDL) has been a huge success. Medicaid savings in FY 2011 were \$27.6 million in total funds. A change in state law would be needed to allow mental health drugs on the Medicaid PDL.

In order to better determine the costs of drugs, DOH released an RFP for a Maximum Allowable Cost (MAC) survey vendor. In the interim, staff have been surveying pharmacies in the state to obtain their current pricing. Based on the results of the staff surveys, MAC pricing has been updated.

In addition, DOH's proposed 1115 waiver for Accountable Care Organizations would move pharmacy into a managed care setting.

Survey Item #24:

“Federal health care reform will significantly impact DWS operations and the administration of other supportive programs. It is imperative that the department be provided the opportunity to mitigate these changes. Potential costs can be contained by leveraging the use of technology and the pursuit of grants or enhanced funding opportunities in absorbing workload increases and managing the complexity of medical policy. It is important to note there has been very little guidance or direction about available funding for system support and/or technology needs. Online reviews, touch points for customers under consideration, and other technology solutions may help DWS administer its Medicaid responsibilities. With reform efforts, DWS anticipates complicated policy differentiating between “currently” and “newly” enrolled recipients. Without technical support and assistance, DWS will be disadvantaged in its role.”

DWS response:

DWS has implemented new enhancements to the eREP system which will assist with an influx of applications for assistance, and the maintenance of additional cases, specifically the on-line review. DWS is working on an enhanced and dynamic on-line application which will also streamline the eligibility process, and it is scheduled for release in spring 2012.

DWS has established a pathway for receiving applications for the Utah Health Exchange and is prepared to receive applications for assistance in this arena.

Specific to Health Care Reform, there are still many unknowns. DWS has worked with DOH and other partners through health care committees in researching options and determining potential costs/budgets for four different scenarios, pending final directions and/or decisions.

DWS will participate with DOH and other partners at a technical assistance retreat on 12/9 to discuss health care options. DWS is aware that federal funding is available for technical enhancements to support health care reform and will pursue options as more information is obtained.

Survey item #25:

“An additional consideration may be **the way Utah assesses Medicaid program performance**. Comparing data obtained before DWS acquired BES from DOH to current DWS BES performance will not yield reliable analysis for several reasons, including the complexity of the two systems, enrollment increases, excessive exceptions, and delayed state revenue responses to changing caseloads. While some assert a multiprogram DWS focus compromises accuracy, DWS leadership contends that more time is requisite for accurate performance assessments in the midst of ESD consolidation, historic caseload increases and eREP implementation.”

DWS response:

DWS has access to several methods which assess Medicaid program performance: MEQC (Medicaid Quality Control), PERM, Single-state audits and our internal Performance Review Team, which conducts real-time case reviews on programs randomly sampled for review. DWS and DOH work closely together on error findings, error trends and complex policies which may lead to increased errors. While DWS has room for improvement in our Medicaid accuracy and quality, we feel we have a solid accuracy plan and our internal case reviews are showing a trend in increased quality and accuracy.

Survey item #26:

“DWS is presently exploring the **implementation of its existing customer homepage**—a personalized access portal whereby clients can access their case and facilitate case maintenance and compliance. Such a solution offers a lot of promise for most mainstream customers, but aged and disabled customers may still require more intense case management and assistance.”

DWS response:

DWS has implemented myCase. DWS has made numerous enhancements to myCase with additional enhancements scheduled for the next several months. In addition to viewing benefit amounts, printing forms, viewing online notices, making payments, viewing receipt of documents and chatting with Eligibility Specialists online, customers can now

report changes and complete their recertification online. Future enhancements include a new, dynamic online application, third-party access for authorized representatives and a “customer full kit,” which will assist the customer in knowing when all requested verifications have been received by DWS.

DWS has existing access points for customers who are not comfortable with accessing information online. Customers may go in to our Employment Centers or call for personalized assistance in eligibility matters. Most of our aged and disabled customers have specific Eligibility Specialists assigned to their case, and customers have a direct phone number to contact these Specialists.

Survey item #32:

I support efforts to evaluate and change how Utah reimburses pharmacies for medications which is a major cost driver in Medicaid. I oppose continued use of the Average Wholesale Pricing methodology that has been the subject of ongoing litigation with drug manufacturers over falsely inflated prices. In fact, a common defense raised by drug manufacturers to various lawsuits in this country is that the States have known for years that reported average wholesale prices (upon which Medicaid bases reimbursement) are not true prices. Moreover in spite of this knowledge Medicaid nonetheless continues paying for drugs using the same reimbursement methodology. Although Medicaid discounts AWP by a certain percentage, evidence is clear that this discount is a shot in the dark approach to trying to pay the correct price. Pharmacies will undoubtedly protest reduced reimbursement for their products, but the “shot in the dark” method of reimbursement is wasting millions of dollars in the Medicaid program.

DOH response:

One option to change reimbursement is to use actual acquisition cost (AAC) as a reimbursement basis. CMS national pricing surveys are a focus of this option. A readily and easily obtained source for AAC is not yet available.

In order to better determine the costs of drugs, DOH released an RFP for a Maximum Allowable Cost (MAC) survey vendor. In the interim, staff have been surveying pharmacies in the state to obtain their current pricing. Based on the results of the staff surveys, MAC pricing has been updated.