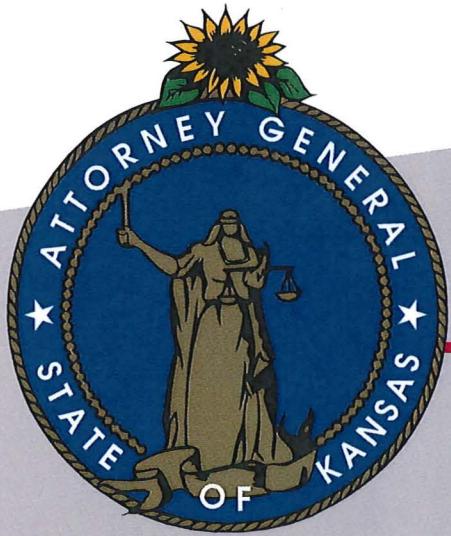


2019

Office of the Medicaid Inspector General

Report No. 19-01

July 31, 2019



KANSAS
ATTORNEY GENERAL

DEREK SCHMIDT

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Letter from the Inspector General

July 31, 2019

TO: Attorney General Derek Schmidt

Secretary of the Kansas Department of Health and Environment, Dr. Lee Norman

Secretary of the Kansas Department for Children and Families, Laura Howard

Members of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight:

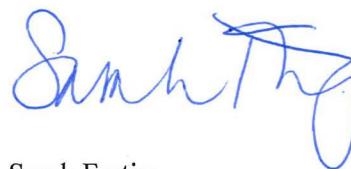
Senator Gene Suellentrop, Chair
Senator Ed Berger
Senator Barbara Bollier
Senator Bud Estes
Senator Mary Pilcher-Cook

Representative Brenda Landwehr, Vice-Chair
Representative Barbara Ballard
Representative John Barker
Representative Will Carpenter
Representative Susan Concannon
Representative Monia Murnan

This report contains findings from our review of messages received by the email address kdhe.OIG@ks.gov during the time period between June 1, 2017 and January 9, 2019. This review was completed in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General: Quality Standards for Inspections, Evaluations, and Reviews*, May 2014 Revision.

We welcome any comments or questions you may have regarding this report or our operations.

Respectfully submitted,



Sarah Fertig
Medicaid Inspector General



Lori Knudsen
Assistant Medicaid Inspector General

Background

OIG Transfer to the Attorney General's Office

On June 1, 2017, the Office of Inspector General (OIG), which is charged with overseeing the Kansas Medicaid program (KanCare), the MediKan program, and the State Children's Health Insurance Program (SCHIP), was transferred from the Kansas Department of Health and Environment (KDHE) to the Attorney General's Office. OIG operations at the Attorney General's Office did not commence until October 9, 2018, when the Senate Confirmation Oversight Committee voted to authorize the attorney general's nominee for the Medicaid inspector general position to exercise the powers of the office pending confirmation by the full Senate. The Medicaid Inspector General nominee was confirmed by vote of the Senate on January 17, 2019.

Prior to the transfer of the OIG from KDHE to the Attorney General's Office, the position of Inspector General had remained vacant since approximately June 2014, and no person had served as Inspector General in a Senate-confirmed capacity since early January 2014. The last KDHE-based staff member of the OIG left her position in November 2014. Thus, between November 2014 and October 2018, the OIG had zero employees.

DCF Fraud Hotline Reports

The Kansas Department for Children and Families (DCF) has a long-standing practice of forwarding reports alleging Medicaid fraud to the OIG. DCF operates a 24-hour hotline that allows concerned persons to report suspected fraud involving public assistance programs, and also provides an online complaint form for public use. Designated DCF staff review each complaint received and forward it to regional fraud investigations unit staff for follow-up as appropriate. When a complaint alleges facts that could affect eligibility for medical assistance, or any other type of Medicaid fraud, DCF also forwards the complaint to the OIG.

Historically, DCF forwarded these fraud reports to the OIG's general email address: first to OIG@kdheks.gov, and later to kdhe.OIG@ks.gov after KDHE changed its email domain name in October 2017. KDHE did not deactivate the OIG@kdheks.gov address following the domain name transition, but instead adjusted that account's settings to automatically forward any message received to the new kdhe.OIG@ks.gov address. The OIG general email address was also posted on the KDHE website to allow concerned members of the public to report concerns directly to the OIG.

We learned of DCF's practice of forwarding fraud reports to the OIG on November 28, 2018, after a KDHE staff member forwarded an email from DCF inquiring which OIG email is currently active. DCF was provided with current OIG contact information and we began receiving fraud referrals from DCF the same day.

The objective of this review was to determine whether DCF fraud reports went unread during the time period between June 1, 2017, when the OIG was transferred from KDHE to the Attorney General's Office, and November 28, 2018, the date DCF was advised of the correct email address to which to direct such reports.

Review Methodology

KDHE provided the emails contained in the Inbox folder for OIG@kdheks.gov and kdhe.OIG@ks.gov for the time period of June 1, 2017, to January 9, 2019, the date the emails were exported.¹ We completed an initial review to determine whether any of the emails were unread as of January 9, 2019. We then separated the unread emails for further review. We tested each unread email to determine whether it was relevant, i.e. whether it included any information about Medicaid, MediKan, or SCHIP. Emails deemed *not* to be relevant included marketing emails, spam, and routine internal messages from other KDHE staff. Emails deemed not relevant were not subject to further review. Relevant emails were reviewed as follows:

- Each relevant email was subject to further testing to determine whether the information provided, if true, would call into question an individual's eligibility for state medical assistance or would constitute a possible violation of the laws governing Medicaid, MediKan, or SCHIP. In those cases, we researched MMIS data, publicly available data (i.e. property records), and other online information sources to determine whether the information contained in the email could be substantiated.
- Each email containing substantiated information about a *current* medical beneficiary was forwarded, along with our research, to the KanCare Clearinghouse for follow-up per KDHE-DHCF policies and regulations. Emails containing substantiated information about a *former* medical beneficiary were forwarded to the KanCare Clearinghouse for their records.
- For each email that alleged fraud by a provider, we contacted the Attorney General's Medicaid Fraud Control Unit (MFCU) to determine whether they had already investigated the same issue. If the MFCU had no current or former case files involving the provider or specific issue, we forwarded the complaint to them for appropriate follow-up.

We took no further action on emails that contained allegations not supported by MMIS data, did not allege a violation, or contained too little detail to allow for meaningful follow-up.

We were unable to independently research eligibility applications as part of this review because the OIG has not yet gained access to the KEEs system. All emails that raised credible questions concerning eligibility were forwarded to the KanCare Clearinghouse with recommendations for follow-up as appropriate.

¹ We lacked the ability to test these files for completeness and therefore relied on KDHE's assertion that the files contained every email contained in the kdhe.OIG@ks.gov inbox. However, we noted no unusual gaps in email dates or any other indications of incompleteness, so it appears KDHE's assertion is accurate.

Review Findings

Unread fraud complaints

We determined that the **209** emails received by kdhe.OIG@ks.gov between August 7, 2017, and January 9, 2019, had not been opened as of January 9, 2019. After reviewing the 209 unread emails according to the methodology described in the preceding section of this report, we determined that **95** of those emails alleged fraud, waste, abuse, or illegal acts related to Medicaid, MediKan, or SCHIP, or were seeking information on how to report suspected fraud. Of those 95 emails:

- Two (2) were from individuals seeking information on where to report Medicaid fraud.
- Two (2) were duplicate reports.
- Three (3) related to current or previous investigations by the Attorney General's Medicaid Fraud Control Unit (MFCU).
- Thirty-eight (38) complaints contained allegations that did not constitute a violation of Medicaid, MediKan, or SCHIP, or were determined to be baseless.
- Eight (8) complaints contained allegations that fall within the jurisdiction of the MFCU and were forwarded to that division for follow-up as appropriate.
- Twenty-six (26) complaints concerned current Medicaid or SCHIP beneficiaries, and the OIG was able to substantiate the allegations in whole or in part. We are in the process of forwarding these complaints to the KanCare Clearinghouse for follow-up as appropriate.
- Sixteen (16) complaints concerned individuals who are no longer Medicaid or SCHIP beneficiaries, and the OIG was able to substantiate the allegations in whole or in part. We are in the process of forwarding these complaints to the KanCare Clearinghouse for their information and records.

The majority of the unread complaints concerned family medical eligibility. A typical complaint alleged that a beneficiary was lying to the state about his or her income, residency, or household composition in order to fraudulently gain or maintain state medical assistance.

Two of the unread complaints warrant additional commentary. The first is a complaint submitted by a DCF employee to inform KDHE that DCF had just completed an investigation into food assistance fraud for an individual who also received Medicaid coverage. The food assistance beneficiary initially qualified as a single parent, but later married and found a higher-paying job. DCF determined that the beneficiary failed to report to DCF the changes in household composition and income, including the spouse's income, for several years, resulting in an estimated \$15,000 food assistance overpayment. We obtained copies of the beneficiary's Medicaid renewal applications and determined that the beneficiary failed to report the same information to KDHE. This case was among the 26 substantiated complaints forwarded to the KanCare Clearinghouse for follow-up.

The second is an alert from the Public Assistance Reporting Information System (PARIS), which notifies affected states when it appears that the same person has applied for - or is receiving - public assistance in more than one state. The PARIS alert in this case was received on September 13, 2018, and included the names and identifying information of 12 individuals. We reviewed each of the potential matches and determined that 11 of them were not receiving Kansas medical assistance.

We determined that one (1) of the individuals listed on the PARIS match report had been incarcerated in a county jail in another state since at least January 2019. This individual is a current Kansas Medicaid beneficiary, and from our research and MMIS claims data it appears that the individual may have left Kansas shortly after gaining Medicaid eligibility in August 2017. This case was among the 26 substantiated complaints forwarded to the KanCare Clearinghouse for follow-up.

Obsolete OIG contact information

Prior to leaving KDHE in November 2014, the last KDHE OIG staff member alerted then-Secretary Dr. Robert Moser to the existence of the OIG email account and advised him that a new staff member would need to be assigned to monitor the account. The OIG email account was checked regularly by KDHE administrative staff between November 2014 and August 2017, when the administrative assistant assigned to monitor the account left KDHE. Beginning August 7, 2017, the kdhe.OIG@ks.gov email account remained active but was no longer monitored.

The OIG was transferred from KDHE to the Attorney General's Office on June 1, 2017, and after that date KDHE was no longer responsible for soliciting reports of Medicaid fraud as required by K.S.A. 75-7427. However, KDHE did not deactivate the kdhe.OIG@ks.gov email account after the OIG function was transferred. As recently as June 2019 that email address remained active. In addition, the former OIG@kdheks.gov account also remains active, but is set to automatically forward any emails received to kdhe.OIG@ks.gov.

Fifteen (15) of the unread fraud complaints within the kdhe.OIG@ks.gov inbox were sent from a now-obsolete KDHE email account for a current KDHE IT staff member. The KDHE IT staff member listed as the sender never saw these complaints; rather, they were automatically routed to the OIG email address from an online form titled "OIG Fraud & Abuse Complaint"² that was created in October 2013. The unread emails included correspondence from DCF showing that as recently as October 2017, DCF was using that form to report suspected Medicaid fraud. In addition, five (5) of the unread fraud complaints received via the online fraud report form were submitted by corporate staff of United HealthCare and its pharmacy benefit manager, OptumRx.

² <https://www.dhe.state.ks.us/Community/se.ashx?s=11B9BDC943CDBB12>

Conclusion and Recommendations

Our review determined that 42 complaints submitted to the OIG containing partially or wholly substantiated allegations of Medicaid or SCHIP fraud, waste, abuse, or illegal acts went unread between August 7, 2017, and January 9, 2019. Sixteen of those complaints involved beneficiaries whose Medicaid or SCHIP eligibility terminated by the time the complaint was reviewed. Twenty-six of those complaints concern current beneficiaries; we will update this report with the outcome of those cases after KDHE completes its follow-up.

From our research, it appears that the emails submitted to kdhe.OIG@ks.gov after August 7, 2017, went unread for two primary reasons. First, when the OIG function transferred to the Attorney General's Office on June 1, 2017, no KDHE OIG staff were part of that transfer because the OIG had been completely unstaffed since November 2014. As a consequence, there were no incoming OIG staff to alert the Attorney General's Office to the existence of the KDHE OIG email account or to notify KDHE that the kdhe.OIG@ks.gov address should be deactivated.

Second, once the responsibility for the OIG division shifted from KDHE to the Attorney General's Office on June 1, 2017, KDHE no longer had the statutory authority to solicit complaints of suspected fraud on behalf of the OIG after that date.

To resolve the issues addressed in this report and ensure no other complaints have gone unread, we make the following recommendations:

1. KDHE should promptly remove the “OIG Fraud & Abuse Complaint” form from the website <https://www.dhe.state.ks.us/Community/se.ashx?s=11B9BDC943CDBB12>.
2. KDHE should advise the three MCOs and their respective pharmacy benefit managers that referrals to the Kansas Medicaid OIG should only be sent to MedicaidIG@ag.ks.gov, and that any internal policies referencing an obsolete KDHE OIG contact should be updated.
3. KDHE should deactivate OIG@kdheks.gov and kdhe.OIG@ks.gov in a manner that minimizes the risk of fraud reports going unread. At a minimum, we recommend that KDHE adjust the account settings for both addresses to automatically forward all emails received to MedicaidIG@ag.ks.gov. We also recommend that KDHE set an automatic reply rule for both addresses that directs the sender to send their report to MedicaidIG@ag.ks.gov instead.
4. KDHE should download and forward to the OIG all emails received by kdhe.OIG@ks.gov between January 9, 2019, and the date Recommendation No. 3 above is implemented.
5. DCF should ensure that its fraud investigations staff only use MedicaidIG@ag.ks.gov to submit fraud referrals to the OIG, and that any internal policies or manuals referencing an obsolete KDHE OIG email address are updated to reflect correct contact information.