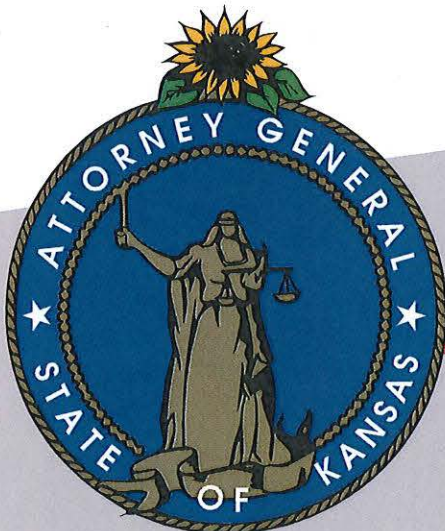


2019

Office of the Medicaid Inspector General

Report No. 20-01

November 13, 2019



**KANSAS
ATTORNEY GENERAL**

DEREK SCHMIDT

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Letter from the Inspector General

November 13, 2019

TO: Attorney General Derek Schmidt

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

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

Senator Gene Suellentrop, Chair	Representative Brenda Landwehr, Vice-Chair
Senator Ed Berger	Representative Barbara Ballard
Senator Barbara Bollier	Representative John Barker
Senator Bud Estes	Representative Will Carpenter
Senator Mary Pilcher-Cook	Representative Susan Concannon
	Representative Monia Murnan

This report contains findings from our performance audit of the Kansas Department of Health and Environment's process for discontinuing Medicaid eligibility when a beneficiary enters a state prison. A performance audit is an independent examination of the economy, efficiency, and effectiveness of a governmental program.

The objectives of this audit were to determine whether KDHE has an effective system for timely and appropriately discontinuing Medicaid eligibility when a beneficiary enters prison, and whether any Medicaid managed care capitation payments were made on behalf of individuals residing in state prison. The scope of our audit included all admissions to the Topeka Correctional Facility in state fiscal year 2019.

This audit was completed in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, 2018 Revision, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained through this audit process provides such a basis.

We greatly appreciate KDHE's cooperation and candor throughout this audit. We also wish to thank the Kansas Department of Corrections for assisting us during this audit by providing necessary data.

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

Respectfully submitted,

A handwritten signature in blue ink that reads "Sarah Fertig". The signature is written in a cursive style with a large initial 'S' and a distinct 'F'.

Sarah Fertig
Medicaid Inspector General

A handwritten signature in blue ink that reads "Lori Knudsen". The signature is written in a cursive style with a large initial 'L' and a distinct 'K'.

Lori Knudsen
Assistant Medicaid Inspector General

Executive Summary

This performance audit examined whether the Kansas Department of Health and Environment – Division of Health Care Finance (KDHE-DHCF) has efficient systems in place to timely and appropriately discontinue Medicaid eligibility when a Medicaid beneficiary enters a state prison. We reviewed all admissions to Topeka Correctional Facility (TCF), the only state prison for women, during state fiscal year 2019 (FY 2019). We identified **230** cases in which a person admitted to TCF in FY 2019 was receiving Medicaid benefits at the time she entered prison. Of those 230 cases:

- **176** (77%) were handled in accordance with KDHE policies and procedures. This means that KDHE received timely notice of the inmate's incarceration, and Clearinghouse staff took prompt action to either sustain or discontinue Medicaid coverage as appropriate based on individual circumstances.
- In the remaining **54** cases (23%), eligibility was discontinued late or not at all. Roughly half (28) of these instances occurred in fall 2018, when some prison admissions from July, August, and September were not processed until the end of October, resulting in two to four months of erroneous eligibility. The other cases involved a failure by the data matching system to flag new inmates for Clearinghouse follow-up; movement to and from TCF; erroneous granting of retroactive eligibility; or other process-related issues.

In August 2019, KDHE implemented a new data exchange with Aprriss to provide KDHE with near real-time notification when an adult Kansas Medicaid beneficiary enters a jail or detention center. We also examined Johnson County and Wyandotte County jail records to determine whether any Medicaid beneficiary who entered TCF from those counties in FY 2019 received Medicaid coverage while she was incarcerated in jail prior to transferring to TCF.

We identified **\$184,997.43** in monthly KanCare capitation payments that were made for incarcerated beneficiaries within our sample population. That sum includes **\$26,511.72** in capitation payments for jail inmates. This suggests that the Aprriss data exchange could lead to significant savings by allowing KDHE to take timely eligibility action on jail inmates.

To resolve the issues identified in this audit report, we recommend that KDHE take certain steps to ensure that they are receiving sufficient, timely data from the Kansas Department of Corrections (KDOC), and that the new Aprriss data exchange is used in conjunction with KDOC data to give Clearinghouse staff a complete picture of a person's incarceration. We also recommend that KDHE amend its procedures to allow Clearinghouse staff to provide notice of eligibility discontinuation by no later than the date of action, and to consider recouping overpayments made to MCOs for incarcerated individuals. KDHE's response is attached to the end of this report.

Introduction

The Office of Medicaid Inspector General is required to conduct independent and ongoing evaluation of the Kansas Medicaid program, which includes performing audits of state programs to ensure that appropriate payments are made for Medicaid services.¹

We decided to initiate this performance audit after observing instances in which Medicaid beneficiaries who were admitted to a state prison continued to show as eligible in the Medicaid system after their eligibility should have been discontinued. Both state and federal law prohibit using Medicaid funds to pay for services provided to state prison inmates, except in narrow circumstances further described below.

Additionally, around this time KDHE-DHCF released Policy No. 2019-08-01² concerning the new data exchange with Appriss, a data network that provides “near real-time information on offenders age eighteen (18) and older across the country.” The purpose of the Appriss data exchange is to enable KDHE to receive prompt notification when a person receiving Medicaid benefits enters a jail or other detention facility. As part of our review of the inmate eligibility discontinuation process, we decided to review publicly-available jail admission and discharge records for selected Medicaid beneficiaries who were later admitted to state prison.

The purpose of this audit is to determine whether Kansas has an effective system of timely and correctly discontinuing Medicaid eligibility for persons admitted to state prison, and to provide a baseline for a later review of the effectiveness of the Appriss data exchange.

¹ K.S.A. 75-7427(c)(2).

²https://www.kancare.ks.gov/docs/default-source/policies-and-reports/kdhe-keesm/kfmam-policy-memos/all-medicaid-program-memos/2019-all-policy-memos/2019-08-01-appriss-implementation.pdf?sfvrsn=24304c1b_4

Audit Scope and Objectives

Scope

The scope of this audit included all admissions to the Topeka Correctional Facility during state fiscal year 2019, July 1, 2018, through June 30, 2019. TCF is the only women's prison operated by the Kansas Department of Corrections. We chose to focus this audit on female inmate admissions because in states that have not expanded Medicaid, women are "more likely to qualify for Medicaid because of their lower incomes and because they are more likely to belong to one of Medicaid's categories of eligibility: pregnant, parent of a dependent child, senior, or disability."³

We performed additional analysis on admissions from Johnson County and Wyandotte County because those two counties provide online jail booking data for past inmates, which allows us to trace an inmate's ineligibility back to when she first was booked into jail on her current case.

Objectives

Our audit objectives were to obtain sufficient appropriate audit evidence to answer the following questions:

- 1) Does KDHE have an effective system for timely discontinuing Medicaid eligibility for individuals who enter a state correctional facility?
- 2) Did the State of Kansas make capitation payments on behalf of TCF inmates during FY2019? If so, were those payments later clawed back after eligibility was discontinued?

³ <https://www.kff.org/womens-health-policy/fact-sheet/medicaids-role-for-women/>.

Applicable Laws and Policies

This section of our report describes the laws governing Medicaid coverage for prison inmates and other policy and contractual factors that are relevant to our findings.

The Managed Care System

Currently, most Kansas Medicaid beneficiaries are covered by KanCare, the state's Medicaid managed care program. KanCare became effective on January 1, 2013, after the state submitted and received federal approval for a section 1115 waiver.⁴ This waiver authority allowed Kansas to move most Medicaid beneficiaries to managed care, with services provided through managed care organizations (MCOs).⁵

Each MCO receives a monthly capitation payment from the state for each eligible beneficiary enrolled with that MCO, regardless of whether that member incurs any medical costs during that month. The amount of the capitation payment varies depending on the assistance program for which the beneficiary qualifies. Capitation payments are paid in arrears; they are made at the beginning of each month for all eligible beneficiaries from the preceding month.

Under managed care, Medicaid eligibility runs from month to month. A beneficiary who gains eligibility in the middle of a month will have an eligibility effective date of the first of the month. Similarly, a beneficiary who is determined to be no longer eligible mid-month will have an eligibility termination effective date of the last day of the month.

Failure to timely discontinue Medicaid coverage when a beneficiary becomes ineligible can lead to capitation payments being made for ineligible persons.

Eligibility rules for incarcerated individuals

Generally speaking, individuals who are incarcerated in a prison, jail, detention center, or other lockup facility are ineligible for Medicaid coverage. Federal law prohibits the use of federal Medicaid dollars “for services provided to . . . [i]ndividuals who are inmates of public institutions.”⁶ “Public institution” is defined in federal law and includes prisons, jails, detention facilities, and other lockups operated under the authority of a governmental unit.⁷

⁴ Section 1115 of the Social Security Act (42 U.S.C. 1315) allows the Secretary of the United States Department of Health and Human Services to waive certain requirements in federal law and authorize “experimental, pilot, or demonstration” projects that the Secretary determines are likely to assist in promoting the objectives of federal Medicaid statutes. Section 1115 waivers are also known as demonstration waivers.

⁵ Groups excluded from KanCare include Qualified Medicare Beneficiaries, whose out-of-pocket Medicare expenses, such as premiums, are paid by Medicaid.

⁶ 42 C.F.R. §§436.1005(a)(2) and 436.1009(a)(1).

⁷ 42 C.F.R. §435.1010.

Similarly, KDHE-DHCF regulation excludes inmates from Medicaid eligibility: “there shall be no eligibility for Medicaid for each person who . . . (i) [i]s physically residing in a correctional facility; (ii) is an accused person or convicted criminal under the custody of the juvenile or adult criminal justice system . . . or (iii) is placed in a detention facility.”⁸ This regulation further clarifies that if a person is living in the community on probation, parole, bail, or bond, or is participating in a prison diversion program operated by a privately supported facility, then that person can remain eligible for Medicaid because he or she is not residing in a government-operated institution.⁹

A state prison inmate may gain Medicaid coverage during his or her prison term for *inpatient* stays at medical facilities outside the prison. For instance, a pregnant inmate may qualify for Medicaid coverage for childbirth services received at a hospital. To qualify for inmate inpatient Medicaid coverage, the inmate must meet all other general and financial eligibility criteria for Medicaid.¹⁰ Prison inmates are not eligible for Medicaid coverage for outpatient medical services.

Laws Governing the Process of Ending Medicaid Coverage

Federal and state regulations generally require that KDHE send “timely notice” to the beneficiary when Medicaid eligibility terminated.¹¹ KDHE regulations define “timely notice” as written notice that is sent at least 10 days before the effective date of the termination.¹² The notice must include certain information, such a statement of the specific reasons supporting terminating Medicaid eligibility.¹³

Federal and state regulations also include an exception to the general rule in cases where the beneficiary has been admitted to an institution, such as a jail or prison, where he or she is ineligible for further Medicaid coverage.¹⁴ In those cases, KDHE may send “adequate notice” of the termination, which means written notice of eligibility termination containing all required information that is sent “not later than the date of action.” For example, written notice sent on 10/31/19 to a beneficiary indicating that his Medicaid coverage is ending effective 10/31/19 qualifies as adequate, but not timely, notice.

KDHE may *not* discontinue Medicaid eligibility retroactively. This means that if KDHE later discovers a beneficiary has been residing in a prison, the agency cannot back-date the discontinuation of Medicaid eligibility to the month the beneficiary entered prison.

⁸ K.A.R. 129-6-60(c)(2)(A)(i).

⁹ *Id.*

¹⁰ K.A.R. 129-6-60(c)(1).

¹¹ 42 C.F.R. § 431.211; K.A.R. 129-7-65(b).

¹² K.A.R. 129-7-65(a)(2).

¹³ 42 C.F.R. § 431.210; K.A.R. 129-7-65(c)(3).

¹⁴ 42 C.F.R. § 431.213(c).

KDHE Policies and Procedures

Medicaid beneficiaries are required to report “any change in circumstances” to the Clearinghouse within 10 calendar days of the change, including changes to income, living arrangement, household size, family group members, residency, alienage status, health insurance coverage, and employment.¹⁵ This includes instances in which a beneficiary’s living arrangement changes from the community to a jail or prison. KDHE does not rely on self-reporting to determine incarceration status, however.

KDHE and KDOC have a data-sharing agreement to allow KDHE to receive regular updates on the state prison population. On or about the 5th of each month, KDHE receives a data file from KDOC that includes prison population information for the preceding month. This file is generated and sent to KDHE automatically without further action from KDOC staff.

Through an automated process, that data file is compared and matched against Medicaid eligibility data in KEES. The automated matching process first attempts to match social security numbers (SSNs) in both files. If there is no SSN match, the first name, last name, and date of birth are compared and matched. If a record in the KDOC file contains no SSN, or if the SSN consists of a dummy number (such as all 9’s), the first name, last name, and date of birth will be compared and matched.

If a match is found through the automated process, KEES generates a task, which is routed to a Clearinghouse work queue. The Clearinghouse worker(s) to whom the task is routed is required to verify incarceration status. If the Clearinghouse verifies that the beneficiary is incarcerated, it is supposed to send a written notice to discontinue eligibility effective the last day of the month. When the Clearinghouse follows these procedures, a total of one month of excess eligibility results.

If the Clearinghouse processes an eligibility discontinuation after the “negative action deadline,” which is 10 days before the end of the month, then eligibility is continued through the end of the following month. If an inmate is admitted and released from prison within the same month or two consecutive months, no action is taken on the case.

The table on the following page provides examples of how this process works:

¹⁵ K.A.R. 129-6-39(d).

	KDOC admission date	KDOC release date	Date of KDOC data match	Date of eligibility termination notice	Effective date of eligibility termination	Months of eligibility while in prison
Inmate A	8/15/19	8/30/19	N/A	N/A	N/A	0
Inmate B	8/15/19	9/15/19	9/5/19	N/A	N/A	0
Inmate C	8/15/19	11/18/19	9/5/19	9/15/19	9/30/19	1
Inmate D	8/15/19	11/18/19	9/5/19	9/25/19	10/31/19	2

The Medical Kansas Economic and Employment Services Manual (“Medical KEESM”) contains KDHE’s Medicaid eligibility policies and procedures. The manual specifies that termination of Medicaid eligibility will always be effective the last day of a given month.¹⁶ The manual also provides that KDHE is only required to send adequate notice, not timely notice, in cases where the beneficiary “has been admitted to an institution and further medical assistance will not be provided to that individual.”¹⁷ This is consistent with the federal and state regulations described on the preceding page.

There are other sections of the Medical KEESM and other KDHE policies that appear to conflict with the above rule. For instance, section 9121.4 of the Medical KEESM states that when a change in circumstances is reported to the Clearinghouse that results in a change in eligibility, “[t]he agency must provide the household with a notice of action that meets the definition of timely and adequate notice . . . if the household’s benefits are being reduced or terminated.” This section appears to create a blanket rule for all actions to terminate eligibility when the Clearinghouse receives notice of a change in circumstances.

Likewise, KDHE-DHCF Policy No. 2019-08-01, the Appriss data exchange policy, includes the following instruction:

Recipients who enter a public institution will be discontinued from coverage. Recipients must be given a minimum of ten (10) clear days [*sic*] notice prior to the effective date of termination and the closure will always be effective the last day of the month. This is called Negative Action deadline and is usually around the 20th of the month.

¹⁶ Medical KEESM § 1424.

¹⁷ Medical KEESM § 1432.

Thus, there appears to be a conflict between certain instructions provided to Clearinghouse staff concerning notice of eligibility termination and the rules set forth in state and federal regulations.

Contractual Provisions

The state's contracts with the three MCOs allow the state to claw back capitation payments that were made for a person later determined to be ineligible. Those contractual specifications provide in relevant part:

Monthly capitation payments calculated in accordance with the CONTRACT will be paid by the State and the CONTRACTOR(S) may only retain capitation payments for Medicaid eligible Members. . . .

The State may recover CONTRACTOR(S)' monthly capitation payments if the Member is subsequently determined to be ineligible for the month in question when the CONTRACTOR(S) actually provided service. Consideration may be given in instances where the CONTRACTOR(S) has paid for services.¹⁸

KDHE has advised us that they typically do not seek to recover capitation payments made on behalf of state prison inmates unless the inmate was deceased during a particular month or months.

¹⁸ Request for Proposal for KanCare 2.0 §§ 5.13.2(E) and (F).

Methodology

To accomplish our objectives, we performed the following tasks:

- Reviewed federal and state laws, regulations, and guidance;
- Communicated with agency officials and various staff members from KDHE, KDOC, and the Clearinghouse to gain an understanding of applicable systems and procedures.
- Obtained a data file from KDOC with admissions to TCF during state fiscal year 2019 which included the following data fields:

Last Name

First Name

Middle Name

Birth Month

Birth Day

Birth Year

SSN

Admission Year

Admission Month

Admission Day

Earliest Release Year

Earliest Release Month

Earliest Release Day

Release Year

Release Month

Release Day

Admission Type (i.e. new court commitment/parole violation)

County of Conviction for the Most Recent Admission and Admission Type

- Using KDHE's reporting and analytics tools in the Kansas Modular Medicaid System (KMMS), pulled MMIS eligibility data for all female beneficiaries who were Medicaid-eligible at any point between January 1, 2018, through June 30, 2019. We selected January 1, 2018, as the start date for our search in order to capture possible jail-time eligibility among the inmates admitted to TCF from Johnson County or Wyandotte County.
- Compared the KDOC admissions data file to the MMIS eligibility file and identified 230 occasions where an inmate was receiving Medicaid benefits at the time she entered prison.
- Created a sampling frame of 100% of the 230 instances identified in order to determine if Medicaid eligibility was discontinued on a timely basis when the beneficiary was

admitted to a state prison. If eligibility was not discontinued timely, we researched the case to determine the reason why.

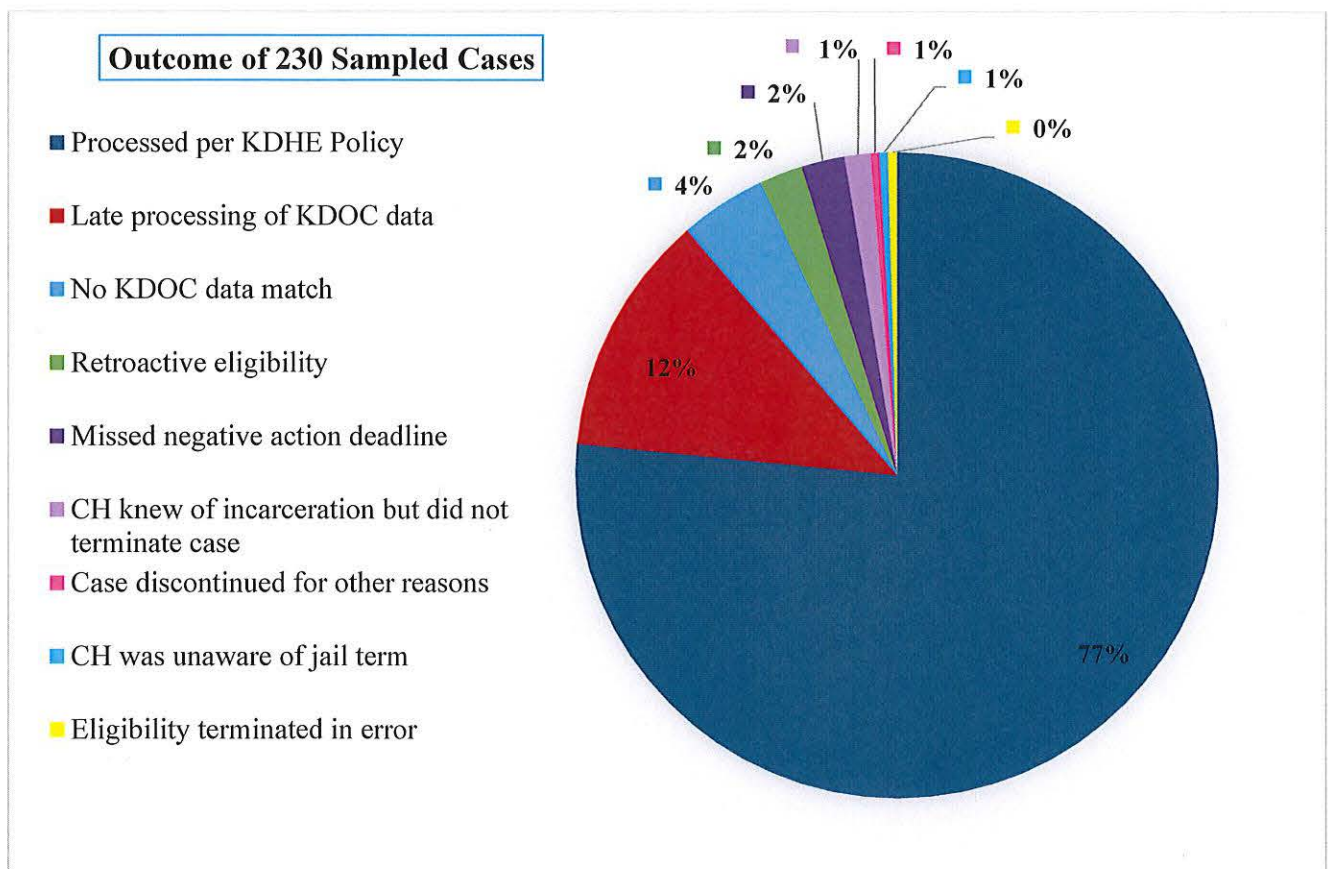
- Accessed KDHE systems or other alternative online information sources to independently confirm or perform additional analysis as needed, including MMIS, ImageNow, KEES, and KDOC's Kansas Adult Supervised Population Electronic Repository (KASPER).
- Performed additional analysis on TCF admissions from Johnson County and Wyandotte County using online jail booking data for past inmates. This allowed us to trace an inmate's ineligibility back to when she first was booked into jail on her current case. This information will be used to provide a baseline for future review of KDHE's new data exchange with Appriss. To validate jail admission and release data, we compared it to KDOC admission data and, when necessary, the register of actions for the inmate's court case.
- Using KDHE's reporting and analytics tools in KMMS, pulled capitation payments made for inmates included in our sample to determine if a payment was made for any ineligible months, and if any such payment was later recouped. We did not include amounts paid for QMB, LMB, MediKan, or Inmate Inpatient population codes as those are not managed care capitation payments.
- Reported draft findings and recommendations to KDHE leadership and reviewed the agency's responses.

Audit Results

According to the data provided by KDOC, there were 1,108 unique admissions to TCF in FY 2019. In some instances, the same individual was admitted to TCF more than once during the fiscal year. We determined that in 230 instances, the inmate had been receiving Medicaid benefits at the time she entered prison.

Our testing results indicate that in 176 of the 230 cases within our sample population, Medicaid eligibility was discontinued per the KDHE policies and procedures described in the Applicable Laws and Policies section of this report. This means that KDHE received timely notice of the inmate’s incarceration, and Clearinghouse staff took prompt action to either sustain or discontinue Medicaid coverage as appropriate based on individual circumstances. In 54 cases, eligibility was either terminated late or not at all.

These cases are summarized in the chart below:



Among the 54 cases in which eligibility was terminated late or not at all, the reasons for inaction varied from case to case. There appeared to be a trend of late processing of KDOC data during the fall of 2018, when 28 beneficiaries who entered TCF between July and September 2018 were not sent discontinuation notices until the end of October 2018, meaning that eligibility did not end until November 30, 2018. Clearinghouse staff indicated that in those cases, the KDOC file was processed timely and tasks were generated timely, but the worker(s) did not complete the tasks timely.

We also identified five (5) instances in which the Clearinghouse received timely notification of the beneficiary's admission to prison, but missed the "negative action deadline" to terminate eligibility at the end of the same month. KEES journal notes indicate that the Clearinghouse workers processed the KDOC data roughly five days before the end of the month, too late to provide the 10 days' notice required by KDHE-DHCF Policy No. 2019-08-01.

In five (5) cases, the Clearinghouse granted retroactive eligibility to a person recently released from prison, which resulted in a period of erroneous eligibility during incarceration. In four of those cases, we found no indication in KEES that the Clearinghouse was aware of the beneficiary's prior incarceration. It is possible that an error occurred during the KDOC-KEES data matching process that failed to identify those individuals as beneficiaries.

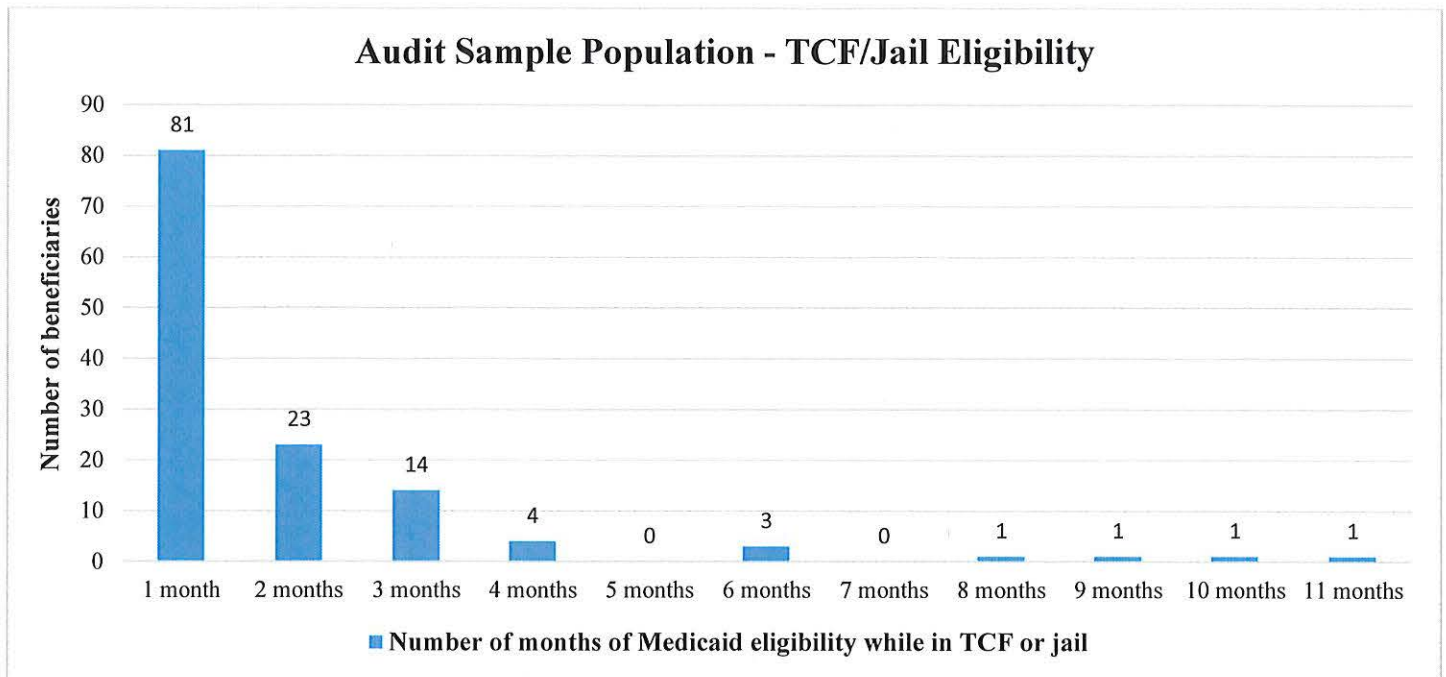
In one retroactive eligibility case, KEES entries showed that the beneficiary's eligibility had been terminated due to incarceration, but the Clearinghouse later granted retroactive eligibility beginning a month in which the beneficiary was residing at TCF. In this case, it appears that the Clearinghouse worker did not review the case history prior to granting retroactive eligibility.

We found 13 cases in which eligibility was never terminated after the beneficiary entered prison. In two of these cases, KEES entries indicate that the Clearinghouse became aware of the incarceration after it received an inmate pre-release application, but did not terminate eligibility. In one case, it appears that the Clearinghouse initiated the discontinuation process, but no notification letter was ever sent so the case was never terminated. In 10 of these cases, it appears that the KDOC data matching process failed to flag the Medicaid beneficiary. In one instance, Clearinghouse staff were unable to verify a person's incarceration status because KDOC's online KASPER inmate locator system used a different spelling of the inmate's last name. In another instance, a beneficiary moved in and out of TCF to local jails for court appearances, giving the impression that she was no longer incarcerated despite being in custody the entire time.

In total, we determined that capitation payments were made for 180 eligibility months among our sample population. These payments totaled \$184,997.43, which includes \$26,511.72 in capitation payments for jail inmates. To date, these payments have not been recouped. In the majority of cases, only one monthly capitation payment was made while the beneficiary was incarcerated.

The most extreme case involved a beneficiary who was booked into jail in 2018 and transferred to TCF seven months later. Although her Social Security number and date of birth were the same in the KDOC and Medicaid systems, her last name was different in the KDOC system.

We found no indication that the Clearinghouse was ever aware of her incarceration. This resulted in 11 months of Medicaid eligibility, and \$3,101.71 in capitation payments, while the beneficiary was incarcerated.



Additional Analysis of Johnson and Wyandotte County Jail Records

Our review of jail records indicates that 16 of the 18 Medicaid-eligible females who entered TCF from Johnson or Wyandotte County in FY 2019 were residing in jail immediately prior to being transferred to KDOC or another jail, and capitation payments were made for 13 of those individuals while they were residing in jail. In sum, 46 capitation payments totaling \$21,790.80 were made for those individuals for months in which they were residing in jail. An additional 20 capitation payments totaling \$8,177.30 were made for inmates from Johnson and Wyandotte counties while they were residing at TCF.

In most cases in our sample population, the number of months spent in jail exceeded the number of months spent in TCF. This trend may not be true of the Kansas prison population as a whole; we only tested records of female inmates. However, our review indicates that the new Appriss data exchange has the potential to generate significant savings by promptly alerting KDHE whenever an adult beneficiary is booked into jail, a detention center, or other lockup.

Audit Findings

1. In most cases, KDHE's process for taking timely, appropriate eligibility action when a Medicaid beneficiary enters a state prison is working as designed.

In our sample population, 76% of cases were processed in accordance with KDHE policies and procedures. The cases that were not processed in accordance with KDHE procedures resulted in overstated eligibility and unnecessary cost to the state. Additionally, both federal and state laws generally prohibit Medicaid coverage for jail and prison inmates, with the exception of inpatient hospital admissions.

In most of the cases in which KDHE procedures were not followed, the cause appears to be staff error. For instance, in some cases Clearinghouse staff failed to complete assigned tasks timely, or failed to verify prior incarceration dates before granting retroactive eligibility. In 10 cases, it appears that KDHE procedures were not followed due to a failure of the automated data matching process to trigger further action by Clearinghouse staff.

2. When KDHE's current process for discontinuing eligibility for prison inmates is followed, it results in one extra month of eligibility and one extra capitation payment on behalf of the inmate.

Under the current process, KDHE receives a data file from KDOC on the 5th of each month containing inmate population data for the preceding month. For example, KDOC population data for September 2019 was received by KDHE on October 5, 2019. This means that under the current system, the earliest KDHE can discontinue eligibility for a person admitted to prison in September 2019 is October 31, 2019, resulting in an extra month of eligibility (October 2019). Monthly capitation payments are made in arrears based upon the roster of eligible beneficiaries from the preceding month.

This result is due to two primary factors. First, the current schedule for receiving KDOC data guarantees that KDHE cannot take action on that data until the following month. Second, federal and state regulations bar KDHE from discontinuing Medicaid eligibility retroactively, even for persons who are categorically ineligible for Medicaid. Therefore, KDHE is unable to back-date an inmate's eligibility termination effective date.

3. The current KDOC-Medicaid data matching process results in errors.

We identified several instances in which the automated data matching system failed to flag records in the KDOC data file even though the inmate's first and last names, Social Security number, and date of birth matched MMIS data. In those cases, it is unclear why the matching system failed.

In other cases, it appears that a difference in name spelling led to a match failure even though the inmate's Social Security number and date of birth matched Medicaid records. In two instances, the inmate's last name was spelled differently in the KDOC system, and in one instance the inmate's first name was spelled differently. However, based upon the description of the automated match system provided to us by the Clearinghouse, a difference in first or last names should not prevent a match when the Social Security number and date of birth both match.

It therefore appears that in some cases, the automated match system is not working as it should. If the automated data matching process fails, then a task is never generated to trigger eligibility discontinuation by the Clearinghouse, and monthly capitation payments continue.

4. KDHE's current policy of requiring at least 10 days' written notice before terminating eligibility for inmates is inconsistent with federal and state regulations and results in extra months of eligibility for incarcerated beneficiaries.

Under KDHE-DHCF Policy No. 2019-08-01, which requires at least 10 days' notice before terminating eligibility for a prison inmate, if the Clearinghouse discovers a beneficiary is incarcerated after around the 20th of the month, benefits cannot be discontinued until the following month because the deadline to provide timely notice has passed. Failure to timely discontinue Medicaid coverage when a beneficiary becomes ineligible can lead to capitation payments being made for ineligible persons.

Five (5) out of 230 beneficiaries tested in our sample population remained eligible for an extra month because Clearinghouse workers processed their incarceration after the monthly negative action deadline, which caused the state to pay \$2,460.04 in unnecessary capitation payments for that extra month. To our knowledge, these payments have not been recouped.

KDHE-DHCF Policy No. 2019-08-01 requires more notice to inmates before the Clearinghouse may terminate eligibility than is required under state and federal regulations. Under those regulations, written notice must be provided to the beneficiary no later than the effective date that eligibility is terminated.

Conclusion and Recommendations

In a significant majority of cases, KDHE's policies and procedures regarding the termination of Medicaid eligibility upon a beneficiary's entry into a state prison appear to be functioning as designed. The 23% of sampled cases in which policies were not followed, or another system failure occurred, present opportunities to fine-tune those procedures.

KDHE's new data exchange with Appriss should enable the Clearinghouse to make more timely and informed decisions regarding the Medicaid eligibility of individuals who are in the custody of law enforcement agencies. Our audit results indicate that the Appriss data exchange could result in significant savings if used in conjunction with KDOC data.

To address the issues described in this report, we make the following recommendations:

1. KDHE should instruct Clearinghouse staff to review prison release dates before granting retroactive eligibility to persons recently released from prison to ensure that eligibility is not granted for a month the beneficiary was incarcerated.
2. KDHE should allow Clearinghouse staff to provide notice of eligibility discontinuation due to incarceration by no later than the date of action, rather than requiring at least 10 days' notice before terminating eligibility.
3. KDHE should ensure that the new Appriss data exchange is used in conjunction with KDOC data to provide Clearinghouse staff with a complete picture of a beneficiary's time in custody.
4. KDOC should review its current data-sharing agreement with KDHE to determine whether additional or more frequent data would assist the Clearinghouse in improving the accuracy and timeliness of eligibility discontinuations. For example, KDOC codes each entry and departure from prison with a Movement Reason that indicates whether the inmate is being released on parole, released to detainer by another law enforcement agency, returning from a court appearance, etc. These data fields, when used in conjunction with Appriss, could help Clearinghouse staff track an individual inmate's movement through the criminal justice system. Likewise, a more frequent inmate population reporting schedule could assist the Clearinghouse in taking timely action on a case.
5. KDHE should review the automated process that matches KDOC inmate population data with KEES eligibility data to ensure that the system is matching all appropriate identifying criteria.
6. KDHE should exercise its contractual right to recoup capitation payments made for persons later determined to be ineligible due to incarceration status.

KDHE's response to our draft findings and our recommendations follows. That document has been redacted to protect certain dates which could allow for the identification of a Medicaid beneficiary if released to the public.

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Lee A. Norman, M.D., Secretary

Laura Kelly, Governor

November 08, 2019

Sarah Fertig
Medicaid Inspector General
Office of Attorney General Derek Schmidt
120 SW 10th Avenue, 2nd floor
Topeka, KS, 66612-1597

Re: Response to Preliminary Audit findings related to KDHE's processes for discontinuing Medicaid eligibility upon a beneficiary's admission to a State prison

Dear Ms. Fertig:

KDHE has completed its review of your recommendations. Below you will find our response to each of the recommendations.

- 1. KDHE should instruct Clearinghouse staff to review prison release dates before granting retroactive eligibility to persons recently released from prison to ensure that eligibility is not granted for a month the beneficiary was incarcerated.** We observed six instances in which eligibility was retroactively granted for a beneficiary to a time in which the beneficiary was incarcerated. In one of those cases, the Clearinghouse had already discontinued eligibility due to incarceration and the incarceration dates were available in KEES journal entries or scanned documents.

Response: KDHE agrees with the recommendation. The job aids for the eligibility workers will be updated to include these instructions.

- 2. KDHE should allow Clearinghouse staff to provide notice of eligibility discontinuation due to incarceration by no later than the date of action, rather than requiring at least 10 days' notice before terminating eligibility.** Both federal law and K.A.R. 129-7-65(c)(3) already allow this. Under the current policy of 10 days' notice, if the Clearinghouse discovers a beneficiary is incarcerated after around the 20th of the month, benefits cannot be discontinued until the following month because the deadline to provide notice has passed.

Response: KDHE agrees with the recommendation and will update its policy to eliminate the 10 days notice requirement.

3. **KDHE should ensure that the new Appriss data exchange is used in conjunction with KDOC data to provide Clearinghouse staff with a complete picture of a beneficiary's time in custody.** For instance, on the third tab of the enclosed workbook there is a case in which a beneficiary entered TCF in [REDACTED] and was released in [REDACTED]. She returned to TCF in [REDACTED] and her eligibility was terminated effective [REDACTED]. During the time she was away from TCF, she was in the custody of the Butler County Adult Detention Center pending her trial in federal court in Wichita. She remained eligible between [REDACTED] and [REDACTED], for a total of nine (9) months of eligibility while incarcerated. In this case, which predates the Appriss data exchange, the Clearinghouse did not have complete information based upon KDOC inmate population reports alone.

Response: KDHE agrees with the recommendation.

4. **KDOC should review its current data-sharing agreement with KDOC to determine whether additional or more frequent data would assist the Clearinghouse in improving the accuracy and timeliness of eligibility discontinuations.** For example, KDOC codes each entry and departure from prison with a Movement Reason that indicates whether the inmate is being released on parole, released to detainer by another law enforcement agency, returning from a court appearance, etc. These data fields could help Clearinghouse staff track an individual inmate's movement through the criminal justice system. Likewise, a more frequent inmate population reporting schedule could assist the Clearinghouse in taking timely action on a case.

Response: KDHE will work with KDOC and explore options.

5. KDHE should review the automated process that matches KDOC inmate population data with KEES eligibility data to ensure that the system is matching all appropriate identifying criteria. This automated matching process is what generates tasks for Clearinghouse staff and triggers discontinuation actions. We identified instances in which an inmate's SSN and date of birth matched KEES records, but it appears that no task was generated to trigger eligibility discontinuation because the first or last names did not match.

Response: KDHE agrees with the recommendation and will continue refining the matching process.

6. KDHE should exercise its contractual right to recoup capitation payments made for persons later determined to be ineligible due to incarceration status. In these cases, the MCO has incurred no costs during the time period in which their member is in prison or jail.

Response: KDHE is taking this recommendation under consideration.

We appreciate the opportunity to comment. If you have any questions, please do not hesitate to contact me at christiane.swartz@ks.gov or 785-368-6296.

Sincerely,



Christiane Swartz
Director of Medicaid Operations/COO
Deputy Medicaid Director

Cc: Lee Norman, KDHE Secretary
Adam Proffitt, State Medicaid Director
Brian Vasquez, KDHE General Counsel