WISCONSIN DEPARTMENT of HEALTH SERVICES
Office of the Inspector General
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Medicaid Payment Suspension Fact Sheet

Federal law, s.1903(i)(2) of the Social Security Act and federal regulations, 42 C.F.R. § 1007.9, 455.2 and 455.23, require that Medicaid payments be suspended pending the investigation of a "credible allegation of fraud" against any individual or entity, unless the State determines that there is good cause not to suspend payments. The Department of Health Services (DHS) Office of the Inspector General is responsible for initiating the Medicaid payment suspension process.

Definition of "credible allegation of fraud"

A credible allegation of fraud is defined in 42 C.F.R. § 455.2 as "…an allegation, which has been verified by the State, from any source, including but not limited to the following:

(1) Fraud hotline complaints.
(2) Claims data mining.
(3) Patterns identified through provider audits, civil false claims cases, and law enforcement investigations. Allegations are considered to be credible when they have indicia of reliability and the State Medicaid agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis."

Process for suspending Medicaid funds

The OIG follows these steps after identifying suspected fraud during the course of an audit or other means:

- OIG collects all available information relating to the allegation(s) of fraud and compiles the information into a referral template.
- The auditor presents the information to OIG management staff, including the Inspector General, for approval.
- Once approved by OIG management, the auditor presents the information to the Deputy Chief Legal Counsel from the DHS Office of Legal Counsel.
- Once the OIG and OLC have confirmed that the referral is complete and meets the criteria of a credible allegation of fraud, the OIG sends the referral and accompanying documentation to the Department of Justice Medicaid Fraud and Elder Abuse Unit (MFCEAU) for investigation.
- The Assistant Attorney General reviews the referral and determines if MFCEAU will pursue an investigation and notifies the OIG within five business days.
- Upon receipt of the acceptance of the case from MFCEAU, the OIG sends a certified letter notifying the individual or agency identified in the MFCEAU referral that Medicaid payments have been suspended. Exceptions to this process are when MFCEAU requests the OIG to delay notifying the provider of the suspension for 30 days or requests that the OIG not suspend payments.
- The OIG sends a copy of the notification of Medicaid payment suspensions to a distribution list of DHS staff and contractors to ensure adherence to the suspension. The OIG sends notifications to the same list when the suspension is lifted.

Good Cause Exceptions

As stated in 42 C.F.R. § 455.23 (e)-(f),

(e) "A state may find that good cause exists not to suspend payments, or not to continue a payment suspension previously imposed, to an individual or entity against which there is an investigation of a credible allegation of fraud if any of the following are applicable:

(1) Law enforcement officials have specifically requested that a payment suspension not be imposed because such a payment suspension may compromise or jeopardize an investigation.
(2) Other available remedies implemented by the State more effectively or quickly protect Medicaid funds.
(3) The State determines, based upon the submission of written evidence by the individual or entity that is the subject of the payment suspension, that the suspension should be removed.
(4) Beneficiary access to items or services would be jeopardized by a payment suspension because of either of the following:
    i. An individual or entity is the sole community physician or the sole source of essential specialized services in a community.
    ii. The individual or entity serves a large number of beneficiaries within a HRSA-designated medically underserved area.
(5) Law enforcement declines to certify that a matter continues to be under investigation per the requirements of paragraph (d)(3) of this section.
(6) The State determines that payment suspension is not in the best interests of the Medicaid program.

(f) A State may find that good cause exists to suspend payment in part, or to convert a payment suspension previously imposed in whole to one only in part, to an individual or entity against which there is an investigation of a credible allegation of fraud if any of the following are applicable:

(1) Beneficiary access to items or services would be jeopardized by a payment suspension because of either of the following:
    i. An individual or entity is the sole community physician or the sole source of essential specialized services in a community.
    ii. The individual or entity serves a large number of beneficiaries within a HRSA-designated medically underserved area.
(2) The State determines, based upon the submission of written evidence by the individual or entity that is the subject of a whole payment suspension, that such suspension should be imposed only in part.
(3)
    i. The credible allegation focuses solely and definitively on only a specific type of claim or arises from only a specific business unit of a provider; and
    ii. The State determines and documents in writing that a payment suspension in part would effectively ensure that potentially fraudulent claims were not continuing to be paid.
(4) Law enforcement declines to certify that a matter continues to be under investigation per the requirements of paragraph (d)(3) of this section.
(5) The State determines that payment suspension is not in the best interests of the Medicaid program."

Individuals or entities who are the subject of a Medicaid payment suspension submit their request for consideration of discontinuation in whole or in part of the suspension to the OIG.

Recourse
The OIG notifies suspended individuals and entities of their appeal rights in the certified letter providing notification of the Medicaid payment suspension. The Division of Hearings and Appeals adjudicates all appeals of Medicaid payment suspensions.

Ending a Medicaid Payment Suspension
The presence of one or more of the following conditions ends a Medicaid payment suspension:

- A DHA ruling in the suspended entity's favor;
- A successful argument for a good cause exception; or
- MFCEAU closes the investigation without pursuing criminal charges or a civil action.

Agencies, both internal and external to DHS, are responsible for collaborating to ensure suspended individuals and agencies are not being paid with Medicaid funds for the duration of the suspension. Questions concerning this process may be directed to the Office of the Inspector General or program staff within the Division responsible for your program.