

**OFFICE OF THE ATTORNEY GENERAL OF NEW MEXICO  
MEDICAID FRAUD & ELDER ABUSE DIVISION  
CONFIDENTIAL INVESTIGATIVE REPORT**

Case Report       Supplemental Report

**Case Name: Families and Youth, Inc.**

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**Synopsis**

An investigation was conducted into potentially fraudulent conduct of Families and Youth, Inc. (FYI). The investigation looked at the Public Consulting Group (PCG) audit, the OptumHealth audit and a referral that came into our office regarding Families and Youth, Inc.

**Background**

According to the Public Consulting Group audit report, in February 2013, the New Mexico Human Services Department (HSD) contracted with Public Consulting Group, Inc. (PCG) to audit fifteen mental health and substance abuse providers statewide. In 2012 these providers constituted approximately 87% of all Core Service Agency (CSA) spending for Medicaid and non-Medicaid behavioral health services.

PCG's clinical case file review utilized two different methodologies for each provider:

- 1) Random sampling of provider claims: Audit of 150 randomly sampled claims that were submitted by the providers. The sampling methodology allows for a statistically valid extrapolation of the findings.
- 2) Consumer case file review: A review of a full year's worth of case file documentation for selected consumers (referred to as longitudinal claims) These findings are not extrapolated, but can be used to identify deficiencies that cannot be identified when reviewing a single claim.

The Human Services Department (HSD) determined the results of the audit constituted credible allegations of fraud for 15 providers and sent 15 referrals to the Attorney General's Medicaid Fraud Control Unit (MFCU). One of those providers was Families and Youth, Inc. in Las Cruces, NM. In the fall of 2015 the Attorney General contracted with McGladrey (the fifth largest CPA firm in the nation, now called RSM), to assist in completing this investigation.

OptumHealth also provided a report of their audit of Families and Youth, Inc. dated June 30, 2013 with various allegations.

An anonymous referral regarding FYI was included in the investigation.

### **Investigation**

The issues raised by the PCG audit are as follows:

- Unqualified staff/practitioners
- Missing or incomplete documentation
- Documentation does not support the service, level of service or duration of service
- The service documentation does not meet the requirements of the regulation or service definition

Most of the PCG issues were able to be resolved without a field investigation because they were mainly issues involving lack of documentation or missing credentials.

For the random claims (Exhibit A) that I reviewed, most were lack of documentation issues and lack of credentials. For the PCG longitudinal claims (Exhibit B) that I reviewed, most were a lack of documentation. Missing documents for random and longitudinal claims were requested of Families and Youth, Inc. and many were produced. However, others were completely missing or missing key elements. For consumers receiving Multi Systemic Juvenile Therapy Services (MST) an explanation was given by former FYI employee Karen Little. She said that this service was an evidence-based service out of South Carolina and that those consultants did not want them to do assessments because they did not want to focus on the past but instead focus on the future. They did weekly treatment plans instead.

As for my request for documents for services delivered by specific rendering providers, none of those providers are still with FYI. La Frontera took over FYI in September 2013 and the Medicaid files stayed behind because La Frontera wanted to copy them for their records. All the files were transported to Albuquerque for copying and were returned in no discernable order, according to Melba Ramos, Executive Assistant to the CEO. This made it difficult for FYI to find the documents that I requested. Michael Deveraux, owner of Document Imaging who copied the documents, stated that he had given a copy of the files to the AG's office. I am not aware of the Office of the Attorney General being in possession of any disk from Document Imaging for Families and Youth, Inc.

Bryan Hodge, former Co-Clinical Director was interviewed. Bryan is a licensed Independent Social Worker and licensed Addiction and Drug Counselor in New Mexico. In his position as Co-Clinical Director, Bryan was responsible for overseeing Behavior Management Services, Comprehensive Community Support Services, two residential group homes and the children's outpatient department.

Bryan was asked about an issue raised in the PCG report that the progress note did not reflect "ongoing assessment of recipient safety issues, monitoring of at-risk situations (danger to self and others)" and how these have been addressed. Bryan responded that

every client admitted into the CCSS program would have completed first an assessment with a licensed counselor to identify any safety needs or concerns. Then going into CCSS they would have completed a functional assessment in addition to crisis safety plan. Those plans are required to be reviewed any time a client has a crisis situation, to determine the effectiveness of the plan and determine if it needs to be updated or tailored to further support that client.

During the review of documents I saw a note that led me to believe that FYI was billing clients a no show fee of \$25. All FYI employees interviewed were asked about this matter and all denied that any fee was ever charged for a client not showing up. I found no further information to substantiate the charging of a no show fee.

PCG identified several employees as being unqualified to provide certain services. I was able to establish for all but one person that they were qualified. I did this by reviewing college degrees, training records and personnel files. Diana Herrera was interviewed because she was listed as not having credentials by PCG. I could not establish that she was qualified from reviewing documents from PCG because she appeared to lack the requisite one year of experience in a related field. Diana believes that she started to work for FYI in May of 2011. Diana knows that to qualify as a CSW you need a degree and depending on the population, some experience. I told her that it requires one year of experience and that looking at her credentials she does not have one year experience. Diana mentioned that she did her internship (while in college) at Southern NM Human Development from August 2009 to May of 2010.

Melba Ramos was interviewed because she is the Executive Assistant to CEO Jose Frieze and Mr. Frieze was out of the office on leave. I told Melba that a long time ago when I had requested a number of documents and she sent me 3 boxes, it appeared that she had gone into the Anasazi program and printed everything for that consumer. She confirmed that was correct. I did not inform Melba at that time that after receiving her documents I was still missing a significant amount of information, mainly assessments, mental screenings and treatment plans.

Melba said that they had the Anasazi program and the hard copy medical file. Everything that had to do with Medicaid was sent to Document Imaging of the Southwest, and when returned was in no discernable order. They had to let go of their records people so they no longer had a Records Department. Melba did not know very much about Anasazi, only how to get into the system and print whatever documents are in the consumer's file. When the takeover by La Frontera took place Melba was authorized to get into Anasazi so that she could get me what I needed. They just gave her a crash course so she only sent me what she could find.

I asked what the FYI policy was for "no shows." The therapists would give the "ladies up front" a list of their appointments so that they could call and remind the clients. There were a lot of no shows because people forgot or they did not have enough money for gas to get to the agency. The front desk would inform the therapist or counselor. Melba does not know if anyone was billed a fee for not showing up.

As a result of my investigation of the issues raised by the PCG audit, I found missing documentation and inappropriate billing practices but no pattern of activity that could be labeled fraudulent.

Issues raised in the Optum audit are:

- Unbundling of services such as Treatment Foster Care
- Billing of procedure codes on the same day that are not allowed to be billed on the same day.
- Potential overuse of Multi Systemic Therapy for Juveniles.
- Billing for services to a client on the same day that the client was seen by another provider at another location.
- Billing medication monitoring (H2010) and medication management (90862) on the same day.

Auditing contractor RSM ran queries on all of the claims for a number of items but, among them, the issues raised in the Optum audit and duplicate billing. A record request was prepared to collect documents to review regarding the results of the queries.

The queries and results were as follows:

Double Billing four of the following ways:

- Same providers and same number of units for same consumer on same day- FYI had one occurrence.
- Different providers and different units for same consumer on same day. FYI had 15 occurrences. Four of the records could not be found, ten records were not double billing and one record had a 15 minute overlap.
- Same providers but different units for same consumer on same day. FYI had no occurrences.
- Different providers but same units for same consumers on same day. FYI had nine occurrences. Four sets of records were double billing and the other five sets were valid services not billed at the same time.

The results of the double billing queries and document review did not demonstrate a pattern and were minimal enough that they did not merit further investigation for fraud.

Unbundling Treatment Foster Care. FYI had 40 occurrences. All but one of these occurrences involved billing med management with treatment foster care which is allowed per NMAC 8.321.2.25.

Unbundling Intensive Outpatient. FYI had 71 occurrences. All of these occurrences were allowable according to NMAC 8.321.2.17. Most of the clients were billed for respite care on the same day as intensive outpatient. During my interviews with former staff at Families and Youth, I was told that some of the patients in Intensive Outpatient are also in Treatment Foster Care and therefore would have respite from time to time.

Billing med management and med monitoring for the same patient on the same day. FYI had 22 occurrences. All of these services that were billed on the same day were billed by the same person. The medication monitoring service almost always involved doing paperwork such as writing a letter to another physician reviewing a file, reviewing lab results or writing a prior authorization. In other instances the client and family were completing the "Abnormal Involuntary Movement Scale (AIMS) and discussing responses and scores. This should all have been billed under Medication Management. By billing under Medication Monitoring, more money was received. All of these were in the first quarter of 2011. Almost all of these services were provided by Dr. Rita Pacheco Gonzales, a psychiatrist. Dr. Gonzales declined to be interviewed by me. I asked former Clinical Director, Mickey Curtis, if she knew anything about this. She did know that those two services should not be billed on the same day but could not say why it was done. Dr. Gonzales was not under her supervision. Because this only occurred for the first quarter of 2011 and was not repeated, I do not see a pattern of fraud.

Mickey Curtis was interviewed as a former Clinical Director for Families and Youth, Inc.

Mickey worked at Families and Youth, Inc. (FYI) from August 1990 to August 31, 2013. When she first started she was a supervisor and coordinator for CHIN (Children in Need of Supervision). In 1994 she was the first clinical director for FYI. That was her position when she left the company.

Mickey agreed that they used the Anasazi system and that assessments were done through that system. I told Mickey that I was missing many assessments and that Melba was minimally trained on the software and asked if there was a different way to print assessments. Mickey stated that some assessments were done on paper and she assumed that Melba found those. Mickey stated that different programs went on Anasazi at different times and progress notes were first. Assessments came up later and treatment plans much after that. I told Mickey that we were missing mental health screenings and weekly supervision notes for Multi Systemic Therapy. She stated that the supervision notes are not in the computer and that they are generally hand-written and stayed with the supervisor and not the company. Nadia Armendariz and Bryan Hodges would have their notes. The MST (Multi Systemic Therapy) supervisor, Karen Little might have hers. The supervision is through a company that they pay for a consult through Center for Effective Intervention and they keep their documentation. It is not a client record but more of a personnel record.

I asked Mickey about Treatment Foster Care. The claims indicated clients would receive this service for a number of months and then it would stop and they would have individual therapy and then eventually go back to treatment foster care. She said they had some long term cases that were in custody of CYFD. They would be approved for treatment foster care and at that point (it is billed by a day of care) they would also get therapy and there would be therapy notes in Anasazi. All of the treatment foster care children were approved by Optum to be in that level of care. Optum would give them a start and stop date and you would have to get a prior approval every thirty to sixty days.

There is documentation and a concurrent review that is submitted. The Treatment Foster Care files are in big three ring binders when they are active.

A separate referral on Families and Youth was received by the Special Investigations Division of the Attorney General's office on July 1, 2014. Most of the allegations did not involve Medicaid fraud and therefore were not part of our investigation. Allegations in the referral that were reviewed were as follows:

- August of 2013, Jose Frieze was seen to have BMS files in his office, by Bridgette Herrera, records clerk, rather than in the records department which is a violation of HIPAA. In that same week Mr. Frieze was seen shredding clinical files in his office by outpatient therapist, Juliette Campos.

Juliette Campos was interviewed. When questioned about the allegations in the referral, she denied that she had ever seen Mr. Frieze shredding clinical files in his office.

- In 2009 FYI engaged in an agreement with OptumHealth to commit fraud against the State of NM by charging increased fees for Medicaid services that were not authorized by the State. This was done by billing all services under a single billing code that provided a higher reimbursement amount than those services would have received from other agencies outside the Rio Grande network.

This allegation is too vague and is past the statute of limitations.

- In 2009 "fraud" occurred in the Behavioral Management Services Program at FYI for billing for multiple services that had not taken place. The "fraud" was discovered by OptumHealth possibly in 2012 and FYI paid Optum a large sum of money.

When questioned about the settlement, Optum classified it as a "payment for normal claim overpayments over a course of time."

Additional interviews were conducted in November 2015 by telephone in order to complete the investigation. The interview conducted with Tammy Johnson is outlined below.

I was given the name and contact information for Tammy Johnson as the billing supervisor. During this interview, I learned that she is an employee of Rio Grande, not Families and Youth, Inc. Rio Grande is a separate agency that provides financial services such as payroll, billing etc. to other behavioral health agencies. I had asked Melba to give me the billing person and Tammy did all of the billing for FYI so that is why I was given her name. She would contact therapists etc. at FYI if she had questions or needed to correct a billing. She also could talk with the clinical supervisors Bryan Hodges and Mickey Curtis and Jose, the executive director.

She billed off the Anasazi system. She ran a number of reports each month to find what might look like an error. She would go to the therapists for clarification. The Anasazi

system shows that she would fix an overlap, for example, although she did not sign progress notes that she changed. Sometimes she would have to delete and re-do a note. She did not find a lot of errors but referred back to the reports she ran every month. She is satisfied that to the best of her ability the billing for FYI through Anasazi was correct.

**Conclusion:**

As a result of employee interviews conducted by telephone, supplemental documentation reviewed, a thorough analysis of claims review and application of the New Mexico Administrative Code for the payment of Medicaid claims, I conclude that insufficient evidence exists to support a finding of fraudulent activity.

However, I did find lack of documentation and inappropriate billing practices, which were found to be supported by the investigation.

The Medicaid Fraud Control Unit has evaluated this matter in accordance with the statutory standards of proof incorporated in the Medicaid Fraud Act Section 30-44-1 et seq., and under New Mexico Law. The findings, damages, calculations and conclusions are not intended to foreclose any administrative or civil action by HSD under its regulatory authority. These findings are not inclusive of and may differ from overpayment calculations or other claims conducted by HSD.

Completed

Closed

Reporting Person: *Susan D. Lester* Date: *2/5/16*  
Attorney: *Patricia Paduina Tucker* Date: *2/5/16*  
Supervisor: *[Signature]* Date: *2/5/16*  
Director: *Patricia Paduina Tucker* Date: *2/5/16*