

**Combatting Fraud
in
Self Direction
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What is Self Direction?



Cash & Counseling Demonstration and Evaluation

- **Study Populations**

- Adults with disabilities (Ages 18-64)
- Elders (Ages 65+)
- Children with developmental disabilities (FL only)

- **Evaluation**

MATHEMATICA
Policy Research

UMBC
AN HONORS UNIVERSITY IN MARYLAND

Self-directing participants were up to 90% more likely to be very satisfied with how they led their lives.



Self direction significantly reduced participants' unmet personal care needs.



Primary caregivers were significantly more satisfied with their lives in general.



Self direction did not result in the increased misuse of Medicaid funds or abuse of participants.



**What experiences have
you had for individuals
who self-direct?**

...

OIG on Fraud in Self Direction

- The Health and Human Services Office of Inspector General (OIG) has been pushing the Centers for Medicare and Medicaid Services (CMS) for tighter controls for Personal Care Services (PCS) with special attention for self direction.

OIG on Fraud in Personal Care

- “significant and persistent compliance, payment, and fraud vulnerabilities.” (in personal care)
- “recommend that the Centers for Medicare & Medicaid Services (CMS) more fully and effectively use its authorities to improve oversight and monitoring of PCS programs across all States.”
- “if CMS issues regulations consistent with our recommendations, it will be better able to prevent and detect improper payments, facilitate enforcement”

OIG on Fraud in Self Direction

- “Investigators have noted that self-directed Medicaid service models (i.e., those in which beneficiaries have decision-making authority over certain services and take direct responsibility for managing their services with the system of available supports), especially those that allow beneficiaries significant control over the selection and payment of PCS attendants, are particularly vulnerable to these fraud schemes.” (2012)

<https://oig.hhs.gov/reports-and-publications/portfolio/portfolio-12-12-01.pdf>

OIG's Recommendations to CMS

- Establish minimum Federal qualifications and screening standards for PCS workers, including background checks.
- Require States to enroll or register all PCS attendants and assign them unique numbers.
- Require that PCS claims identify the dates of service and the PCS attendant who provided the service.
- Consider whether additional controls are needed to ensure that PCS are allowed under program rules and are provided.

<https://oig.hhs.gov/reports-and-publications/portfolio/ia-mpcs2016.pdf>

Electronic Visit Verification as a Solution

- “The widespread potential for fraud in Medicaid home care programs and the potential savings achieved when using visit verification solutions was one of the rationales behind including EVV in the Cures Act.”

https://www.sandata.com/wp-content/uploads/2017/04/EVV-National-Mandate-Models_Sandata.pdf

Data Sources

- FY 2016 MFCU Statistical Data - PCS Attendants & PCS Agencies
- Provider Type includes Personal Care Services Agency and Personal Care Services Attendant
- Personal Care Spending by state from 2015 from CMS 64 data by state (<https://www.medicaid.gov/medicaid/financing-and-reimbursement/state-expenditure-reporting/expenditure-reports/index.html>)
- Total Disabled Social Security Disability Insurance (SSDI) Beneficiaries, Ages 18-64 in each state from 2015 from The Kaiser Family Foundation 2017
- Home health and personal care aides per 100 adults age 18+ with ADL disabilities from 2016 in the 2017 AARP Long-Term Care Scorecard.

What do the data say?



Personal Care Fraud Investigations and Enforcement Actions by State - 2016

Measure	Open Investigations (Total)	Indicted/Charged (Criminal)	Convictions (Criminal)	Settlements and Judgments (Civil)
Average	44	11	10	1
Low	0	0	0	0
High	265 (Ohio)	65 (Ohio)	65 (Ohio)	39 (Colorado)
Median	18	4	2	0

Personal Care Spending Found to be Fraudulent by State - 2016

By State	Total Amount of Recoveries (Criminal)	Total Amount of Recoveries (Civil)	Total Recoveries
Average	\$233,382	\$46,521	\$279,902
Low	\$0.00	\$0.00	\$0.00
High	\$2,587,317 (Washington D.C)	\$1,058,249 (Massachusetts)	\$2,587,317 (Washington D.C)
Median	\$10,229	\$0.00	\$32,112

Percentage of Personal Care Spending Found to be Fraudulent by State - 2016

Measure	Percentage Criminal	Percentage Civil	Total Percentage
Average	0.628%	0.013%	0.641%
Low	0.00%	0.00%	0.00%
High	2.96% (Kansas)	0.276% (Vermont)	2.96% (Virginia)
Median	0.002%	0.000%	0.005%

Personal Care Fraud Data

Less than 1% of spending is fraudulent for 43 states

That means:

99% of Personal Care spending is NOT fraudulent for 43 states

Personal Care Fraud Data

Less than 3% of Personal Care spending is fraudulent for the 7 worst states

That means:

97% of Personal Care spending is NOT fraudulent for the 7 worst states

Fraud Per Personal Care Worker by State (2016)

By State	Fraud Convictions per Personal Care Worker	Open Fraud Investigations per Personal Care Worker	Fraud Indictments or Charges per Personal Care Worker	Value of Fraud Recoveries per Worker
Average	0.0005	0.0019	0.0004	\$17.60
Median	0.0001	0.0008	0.0001	\$17.96

- *About 5 in every 10,000 personal care workers has a fraud conviction*
- *About 19 in every 10,000 personal care workers was investigated for fraud*
- *About \$17.60 paid to each personal care worker was fraudulent*

The data tell us there is fraud...but not much

Why isn't there as much fraud as expected?

In Self Direction...

- Program Design Decisions
- Financial Management Services Providers
- Information and Assistance Providers (Support Brokers, Counselors, Case Managers, Service Coordinators)

all work to help curtail fraud.

What do they do?

- Pre-Payment Controls
- Post-Payment Controls
- Education

Pre-Payment Controls

- An FMS provider usually ensures that the workers or vendors a participant selects
 - ❑ meet *program* qualifications before approving the worker or vendor to provide service
- i. FMS providers usually do some or all of the following:
 - ❑ Run criminal background checks
 - ❑ Run sexual abuse registry background checks
 - ❑ Run nurse registry background checks
 - ❑ Check the OIG list of excluded individuals and entities
 - ❑ Check that workers who will be driving a participant have a valid
 - ❑ drivers' license and auto insurance

Pre-Payment Controls

- Almost always, the FMS provider ensures that the participant and service provider sign an agreement prior to service being allowed to be paid that outlines the rules of the program and the penalties of breaking those rules
 - An FMS provider always receives the record of service that was delivered to the participant before a worker or vendor is paid
 - This should always include the worker who provided the service, the participant for whom it was provided, the date worked, the start time, the end time and the service provided
- The FMS provider performs a variety of duties before approving the worker or vendor.
 - If an inconsistency or problem is found, ample follow up with a case manager, participant, family, worker or vendor occurs before a worker or vendor can be paid

Pre-Payment Controls

- When receiving a record of service delivery for payment, the FMS provider ensures that:
 - ❑ Both the consumer and service provider have signed the record of service delivery attesting under penalties of perjury that the service was delivered as documented
 - ❑ The service that was provided has been pre-approved, via the plan of care, a referral, the spending plan or an associated prior authorization
 - ❑ The service is within the approved amount limits – in other words, there exist enough approved, yet unused units or funds for the participant to cover the cost of the service
 - ❑ The service is not for a future date of delivery. The date of service is in the past
 - ❑ The participant is eligible for the program on the date of service – the participant is not known to have been institutionalized or hospitalized on the date of service delivery
 - ❑ FMS providers require workers to record the time in and time out of their work each day so that the FMS provider can ensure that a single worker didn't serve multiple participants simultaneously (if the program doesn't allow that) or a participant didn't receive services from two workers simultaneously (if the program doesn't allow that)
 - ❑ Other conditions may also apply depending on the program, the service delivered, the type of worker etc. For example, in MN, in certain programs, stricter rules apply if the worker is a family member

Pre-Payment Controls

- Most FMS providers are using sophisticated technology to automatically detect
 - when service delivery records do not pass rules and payment is prevented if the rules are not passed
- Only when a service delivery record meets and passes all the rules does the FMS provider pay for it
- If all the rules are not met, the FMS provider performs follow up and often the case manager or counselor is involved

Pre-Payment Controls

- In addition to the above controls, some FMS providers have additional and varied controls including:
 - ❑ Ensuring the name on an account that payment is directly deposited to is never the participant's name
 - ❑ Ensuring that the “mail to” check address of the provider is never the participant's address without follow up and a “good reason”
 - ❑ Flags if a service provider has an address in a state other than where the participant lives
 - ❑ Timesheet signature review to check that a copy of a signed timesheet hasn't been edited and submitted

Post-Payment Reporting

- Almost all participant direction programs require regular reporting to the program administration agency, the counselors or case managers and to participants
 - Unlike the previously mentioned controls that are proactive, reporting is an excellent control to detect if fraud has occurred – to catch it before more occurs
- In most programs, reports are at least monthly and show the services and amounts approved for a participant and the services and amounts expended for the participant for the reporting period
- **This proves to be an excellent tool for case managers and families to identify if the FMS provider paid for something that the case manager or participant doesn't think is right**
- **This is a good way to detect if a service provider is submitting false service delivery records to an FMS provider**

Information and Assistance in Self Direction

- Work with participants and families to plan spending
- Know individual, sometimes family and often know workers
- Follow up with individuals and family about changes in service utilization or spending
- Meet in person with individuals and family multiple times per year
- Go to home in person at unexpected time when service is likely being delivered



Thank You

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