

Department of Health Care Services It Needs to Streamline Medi-Cal Treatment Authorizations and Respond to Authorization Requests Within Legal Time Limits

REPORT NUMBER 2009-112, MAY 2010

Department of Health Care Services' response as of November 2010

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the Department of Health Care Services' (Health Care Services) administration of the California Medical Assistance Program (Medi-Cal) treatment authorization request (TAR) process. Health Care Services instituted the TAR process to monitor and control the provision of certain Medi-Cal services and drugs. The audit committee asked us to determine whether Health Care Services has performed a cost-benefit analysis or any other review of the TAR process. In addition, the audit committee requested that, for a two-year period, we identify Health Care Services' average response time for TARs by provider category and by the method used to request the TAR.

Finding #1: Health Care Services has not performed a cost-benefit analysis of its least-frequently denied TARs.

Overall, Health Care Services' data indicates that the TAR process as a whole saves substantially more money in avoided paid claims to Medi-Cal providers than it costs to administer. However, there are compelling reasons for Health Care Services to perform a cost-benefit analysis of the segment of its TAR process associated with service categories with low denial rates, but it has not done so. Our analysis revealed that Health Care Services may have spent \$14.5 million annually—40 percent of its total TAR-related expenditures—processing roughly four million medical TARs with denial rates of less than 4 percent in fiscal years 2007–08 and 2008–09. Consequently, the cost of processing this population of TARs is high. Health Care Services has performed limited analyses that considered the costs and benefits of its TAR process. However, these analyses did not consider whether administrative costs to process TARs for service categories with low denial rates were greater than or equal to how much Health Care Services saved in the form of costs avoided by denying inappropriate services.

To streamline the provision of Medi-Cal services and improve its level of service, we recommended that Health Care Services conduct cost-benefit analyses to identify opportunities to remove authorization requirements or to auto-adjudicate those medical services and drugs with low denial rates, low paid claims, or high TAR administrative costs.

Audit Highlights . . .

Our review of the administration of the California Medical Assistance Program treatment authorization request (TAR) process revealed that the Department of Health Care Services:

- » *Manually adjudicates all medical TARs including those rarely denied.*
- » *Did not consider administrative costs to process TARs associated with service categories with low denial rates in its previous analyses.*
- » *Does not separately track costs related to administering the TAR process.*
- » *Is not processing drug TARs within the legal time limits for prescriptions requiring prior approval.*
- » *Does not monitor its processing times for prior-authorization medical TARs even though state law requires them to be processed within an average of five working days.*

Health Care Services' Action: Pending.

Health Care Services reported that a contractor will perform a cost-benefit analysis to identify opportunities to remove authorization requirements or to auto-adjudicate those medical services and drugs with low denial rates, low paid claims, or high TAR administrative costs. According to Health Care Services, it is currently finalizing the work authorization agreement necessary for the contractor to begin this project. Health Care Services stated that the project is tentatively slated to be completed within 12 weeks of a signed work authorization agreement.

Finding #2: Health Care Services has failed to process drug TARs within federal and state time limits.

Health Care Services is not processing drug TARs within legal time limits for prescriptions requiring prior approval. Federal and state law generally require that, when Health Care Services requires a prior authorization before a pharmacist may dispense a drug, it must respond within 24 hours of its receipt of the request for authorization. The TAR is the means by which Health Care Services conducts its prior-authorization process. However, Health Care Services took longer than 24 hours to respond to 84 percent of manually adjudicated drug TARs in fiscal year 2007–08 and 58 percent in fiscal year 2008–09. Health Care Services does not monitor its TAR processing times in such a way that it can accurately assess its compliance with legal time limits. For example, Health Care Services tracks the date it receives a TAR, but it does not track the specific time it receives a TAR through the mail or by fax. In contrast, TARs submitted electronically have date and time stamps that reflect precisely when they were received. Further, Health Care Services has interpreted the 24-hour limit in law improperly to mean the next business day. Health Care Services considers TARs received between midnight and 5 p.m. on a business day as received on that day's date, and TARs received between 5:01 p.m. and 11:59 p.m. as received the following business day. Therefore, Health Care Services considers a drug TAR received at 8 a.m. on a Monday as received that day, but a response would not be due until Tuesday at 5 p.m., 33 hours after it actually was received. However, it considers a TAR it physically receives at 5:01 p.m. on Friday as officially received on Monday, giving it until close of business on Tuesday to process the TAR. As a result, Health Care Services' next business day could be as long as 96 hours—well beyond the 24 hours the law allows.

To ensure that Medi-Cal recipients receive timely access to prescribed drugs, we recommended that Health Care Services abolish its policy of responding to drug TARs by the end of the next business day and instead ensure that prior-authorization requests to dispense drugs are processed within the legally mandated 24-hour period. Alternatively, it should seek formal authorization from the Centers for Medicare and Medicaid Services (CMS), the federal agency that administers the Medicaid program, to deviate from the 24-hour requirement, and should seek a similar modification to state law. In addition, Health Care Services should begin recording the actual time it receives TARs through the mail or by fax, so that it can begin to measure accurately its processing times for these paper TARs.

Health Care Services' Action: None.

Health Care Services disagrees with our recommendation that it abolish its existing policy of adjudicating drug TARs by the end of the next business day. Health Care Services indicated that it has operationalized the 24-hour requirement as the end of the next business day because the offices where drug TARs are processed are not staffed or budgeted for 24-hour, seven-day-per-week operations. Health Care Services also reported that it has not sought formal authorization from CMS to deviate from the 24-hour requirement because it asserts that CMS is aware of Health Care Services' next business day practice and that emergency drug supplies are available to Medi-Cal beneficiaries as needed. In addition, Health Care Services stated that it does not plan to seek a modification to state law regarding the 24-hour time frame at this time. Health Care Services made similar statements in its response at the time we published our report in May 2010. However, as we indicated in our report, we are aware of no legal authority that authorizes Health Care Services to deviate from the unambiguous, plain language of federal and state law and, in the absence of an interpretative regulation, to "operationalize" the 24-hour requirement in a manner inconsistent

with the law for any purpose, including staffing and budgetary constraints. Further, although Health Care Services has asserted that CMS has an awareness of Health Care Services' "next business day" practice, the department could provide no evidence that CMS actually approves of the practice. While we sought CMS' opinion about whether Health Care Services' interpretation of "24 hours" as meaning the "next business day" was appropriate, we received no official response. Accordingly, we concluded that, in the absence of any formal interpretation or guidance by the federal government, the plain language of the federal law and conforming state law controlled. We therefore stand by our recommendation that Health Care Services should abolish its policy of responding to drug TARs by the end of the next business day and comply with the legal mandate requiring it to process prior-authorization drug TARs within the specified 24-hour period. As we recommended, it may be more practical for Health Care Services to seek formal authorization from CMS to deviate from the 24-hour requirement, which could result in a change to the federal statute or implementing regulation or a formal waiver from CMS, whereupon it would be appropriate to make conforming changes to state law.

Finally, Health Care Services reported that it has identified the system and business processes that would need to be modified to record the actual time it receives TARs through the mail or by fax, and that these changes are complex and costly. Given the lengthy time frame to make the necessary changes and the high cost, Health Care Services concluded that modifying the current system is not viable. Health Care Services reported that it will instead implement this change through the system that the new California Medicaid Management Information System contractor will develop.

Finding #3: Health Care Services cannot ensure compliance with state requirements for response times.

Health Care Services does not specifically monitor its processing times for prior-authorization medical TARs despite acknowledging that state law requires that TARs submitted for medical services not yet rendered must be processed within an average of five working days. Although it has a reporting tool that allows it to monitor TAR processing times, it does not differentiate TARs requesting prior authorization to provide services from TARs requesting an authorization after services already have been provided. As a result, Health Care Services cannot ensure that it is approving prior-authorization TARs within the legal time limit and therefore may be preventing some Medi-Cal patients from receiving timely medical services.

To ensure that Medi-Cal recipients are receiving timely medical services from providers, we recommended that Health Care Services start tracking prior-authorization medical TARs separately and ensure that such TARs are processed within an average of five working days. Although state law and regulations specifically require prior authorization for certain medical services, Health Care Services generally does not require prior authorizations in practice. Consequently, Health Care Services should seek legislation to update existing laws and amend its regulations to render them consistent with its TAR practices.

Health Care Services' Action: Pending.

Health Care Services reported that it has developed a manual sorting process that will identify prior-authorization paper TARs as they are received in the field office mail rooms. These TARs will be placed in a designated location and will be processed before retroactive paper TARs. Health Care Services is also designing a system workaround that will enable it to track and report prior-authorization paper TAR processing turnaround times. However, Health Care Services indicated that it will defer modifying the current system to track all prior-authorization TARs due to the lengthy time frame and high cost to implement such changes, but it will ensure that the replacement system described in the previous finding includes the ability to track and report on prior-authorization TAR processing.

Finally, Health Care Services reported that it is not currently seeking legislation to update existing laws and amend its regulations to render them consistent with its TAR practices because California's health care system will change significantly with the implementation of a recently approved federal waiver of certain Medicaid requirements and through provisions of the Affordable Care Act. Health Care Services believes it is premature to make the recommended legislative changes at this time, but will consider seeking such legislation, as warranted, in the future.