



COUNTY OF ERIE
STEFAN I. MYCHAJLIW
COMPTROLLER

February 8th, 2013

Mr. James S. Cox
New York State Medicaid Inspector General
Main Office
800 North Pearl Street
Albany, New York 12204

Dear Mr. Cox:

I would like to inform you of information brought forth by a whistleblower that leads us to believe individuals in the Erie County Department of Social Services may have ordered lower level employees to automatically recertify people to receive Medicaid benefits without checking whether or not they continue to be eligible.

This matter was brought to my attention through an anonymous letter sent to Erie County Comptroller Stefan I. Mychajliw on January 25th, 2013. Attached to the letter received was a copy of an email that purports to show workers were instructed to automatically recertify people for Medicaid benefits without requesting and reviewing documentation that confirms the individual should continue to receive Medicaid benefits. In layman's terms, it appears as though workers were told to "rubber stamp" recertification without checking documentation.

Some excerpts from the emails are:

"We are auto-recertifying all 1/31 recerts that have been received"

"Just recertify – DO NOT DO A BUDGET "

"Please remember, since auto recerts are being done for January/February if (and when) you receive a call from a client regarding a letter they received DO NOT TELL THEM THAT IT WAS AN AUTO RECERT"

"DO NOT SAY we recerted without looking at their information, or blame any other part of the agency or any internal processes we have."

Subsequent information received from the whistleblower indicates the email originated from the Erie County Department of Social Services – Medicaid Unit. After discussing the information in the email, the Erie County Comptroller requested the Division of Audit and Control to conduct a thorough investigation.

We immediately scheduled an audit to determine if participants were automatically recertified and if so, did they receive any services paid by Medicaid subsequent to the auto-recertification. We also wanted to confirm that the email originated from within the offices of Erie County and who determined that auto recertification was to be done.

If recertifications were automatically done a result could be that Medicaid paid for services provided to persons living in Erie County who are not eligible for Medicaid. This potentially could lead to serious consequences for Erie County.

We have been working on this issue since January 25th, 2013. We want to get to the bottom of this as quickly as possible to stop potential wrongdoing and take corrective action if necessary.

In a letter dated February 5th, 2013, Erie County Social Services Commissioner Carol Dankert would not allow our office to review records, stating, "DSS records are confidential and to report any information to the Comptroller's Office could violate New York State and/or Federal statutes."

It is my understanding that this rationale was not used before when the Office of Erie County Comptroller conducted Medicaid related audits in December of 1996.

Our office also asked the Department of Information and Support Services (DISS) on February 6th, 2013 to retrieve the electronic versions of the whistleblower emails. Our request was denied.

In a personal meeting on the afternoon of February 6th, 2013, Commissioner Dankert and Social Services Director of Legal Affairs Thomas Kubinec notified Senior Auditor David Kinda and myself that our auditors would still not be given access to records.

When I notified Mr. Kubinec that under the Erie County Charter that we in fact should have access to these records, we were told he would look into the matter and get back to us. Commissioner Dankert said we could begin an audit, but would not be able to review the records that we need to conduct an audit.

We are simply trying to answer some very serious questions: are Erie County workers being ordered to automatically renew people for Medicaid benefits regardless of whether or not they are eligible to receive them? If so, by whom? Did Medicaid pay for services of participants that were automatically recertified and were not eligible to receive such services?

In addition to the audit we are attempting to conduct, we formally request the New York State Office of the Medicaid Inspector General and/or the New York State Comptroller's Office to begin an audit/investigation as well.

If our audit team will still not be allowed to determine whether or not county employees were instructed to automatically recertify people to receive Medicaid benefits without checking records, then we formally ask for New York State's assistance to determine if Medicaid malfeasance is taking place by Erie County workers.

We have also taken other steps in order to report the allegation. They include:

- Report the information via phone call and email to the New York State Medicaid fraud control unit
- Report the information via phone call to the Office of Inspector General (OIG) national fraud hotline

Thank you very much for your prompt attention to this matter. You can reach me at 716.858.8430 if you have any questions. We will gladly work collaboratively with your office to resolve this issue as soon as possible.

Sincerely,



Teresa M. Fraas
Erie County Deputy Controller – Audit and Control

Cc. Andrew A. SanFilippo, New York State Executive Deputy Controller
Honorable Thomas P. DiNapoli
Honorable Eric T. Schniederman, New York State Attorney General
Honorable Stefan I. Mychajliw, Erie County Comptroller
Honorable Mark Poloncarz, Erie County Executive
Erie County Legislature
Erie County Attorney Michael Siragusa