



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION (FSSA)
TITLE: FSSA SERVICE PROVIDER FRAUD
CASE ID: 2018-12-0323
DATE: October 15, 2019

Inspector General Staff Attorney Heidi Adair, after an investigation by Inspector General Special Agent Mark Mitchell, reports as follows:

The Indiana General Assembly charged the Office of Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch of state government. IC 4-2-7-2(b). The OIG also investigates criminal activity and ethics violations by state workers. IC 4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. IC 4-2-7-3(2).

On December 10, 2018, the OIG opened an investigation after receiving a complaint regarding an approved Medicaid Waiver Service Provider (the Provider) with the Indiana Family and Social Services Administration (FSSA) who provides waiver services through FSSA's Division of Aging (DA) and Division of Disability and Rehabilitative Services (DDRS)¹. The complaint alleged that someone from the Provider had signed a residential home lease on behalf of a client with special needs (Client). The complaint also alleged that the Provider had set up gas, electric utilities and cable accounts in the Client's name and may have opened a credit card in his

¹ Both DA and DDRS have their own waiver programs with separate funding, and both divisions monitor and address complaints that occur within their own waiver programs. According to DDRS staff, DA does not have access to the DDRS database and DDRS does not have access to the DA database.

name. The OIG opened an investigation due to the potential mishandling of state funds by a company who has a business relationship with the State.

OIG Special Agent Mark Mitchell conducted the investigation into this matter. Special Agent Mitchell learned that the Client received services through waiver programs at both DA and DDRS. He and his caregiver (Caregiver) selected the Provider from a “pick list” of certified providers that could provide the type of services required under the Client’s care plan. Part of the Provider’s services include helping Medicaid waiver recipients coordinate living arrangements. Typically, when a client and/or his or her legal guardian chooses a home, the Provider helps facilitate the lease agreement between the client and owner of the home. The client and/or the client’s legal guardian signs a lease agreement and is responsible for paying the monthly rent and utility expenses.

In the fall of 2018, the Client moved into a home owned by the Provider’s owner. Special Agent Mitchell interviewed the Client’s case manager, who said that because the Client’s move was an “emergency transition”, the Client and his Caregiver did not choose which home he would move into; rather, the Provider chose this home for him. The Client’s case manager told Special Agent Mitchell that providers of residential homes handle monthly expenses differently. She explained that some service providers place utilities in the client’s name while other service providers place the utilities in their own name and then bill the individuals living in the home equally for those expenses. She was not sure which method the Provider followed.

Special Agent Mitchell interviewed the Caregiver. The Caregiver provided that in late 2018, the Provider sent her an invoice asking for reimbursement of utility bills. When the Provider told the Caregiver that she was required to pay these expenses pursuant to the lease she signed, she claimed she had never signed a lease. The Provider’s representative told Special Agent Mitchell that they were unable to locate the signed lease agreement so the Provider paid the monthly rent and utility costs for the remainder of the Client’s stay in the home. The Caregiver did not pay for

any of these expenses then or since. The Client has since moved out of the home. The Caregiver has filed complaints (Incident Reports) with respect to the Provider with FSSA's Bureau of Quality Improvement Services.²

Special Agent Mitchell contacted the FSSA Bureau of Developmental Disabilities Services (BDDS)³ and inquired whether there is a policy regarding what name(s) should be on utilities when individuals are living in community based settings. They said that BDDS does not have such a policy. They explained that the Home and Community Based Settings (HCBS) rule indicates that people receiving waiver services have the same rights as those not receiving services. Accordingly, BDDS cannot dictate how individuals receiving services under a Medicaid waiver manage expenses like utility payments.

Along with investigating the specific circumstances involving the Client's case, Special Agent Mitchell also reviewed the oversight FSSA provides to the Provider. He learned that FSSA conducts regular compliance audits of Medicaid service providers, including the Provider. According to the Provider's representatives, FSSA audits the Provider every two to three years. Additionally, they told Special Agent Mitchell that the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) audits the Provider every year and has reported no issues.

Special Agent Mitchell obtained information from FSSA's DA, one of the Divisions through which the Provider provides waiver services and the Client receives services. He learned that the Provider became a waiver provider through DA in 2017. The DA noted that the Provider is in good standing with FSSA as they have not yet audited the Provider's services. FSSA has scheduled a DA compliance review of the Provider for early 2020.

² The Bureau of Quality Improvement Services (BQIS) is a division of DDRS that monitors services to individuals by organizations and providers. (<https://www.in.gov/fssa/ddrs/2635.htm>).

³ The Bureau of Developmental Disabilities Services (BDDS) is a division within DDRS that administers Home and Community Based Medicaid Waivers and provides oversight of waiver providers.

FSSA's DDRS conducted a review of complaints received against the Provider regarding specific waiver violations. DDRS forwarded certain issues to the Indiana Office of Attorney General's (OAG) Medicaid Fraud Control Unit for review. DDRS told Special Agent Mitchell the DDRS' review started sometime after January 2019. The FSSA Audit Services division also recently conducted an audit of the Provider.

Special Agent Mitchell inquired with the OAG's Medicaid Fraud Control Unit early in the investigation to see if they had received any complaints against the Provider or had ever investigated the Provider. The OAG told Special Agent Mitchell that, at the time, no investigation had been commenced. Since then, The FSSA Audit Services division informed Special Agent Mitchell that DDRS did make a referral to the Medicaid Fraud Control Unit, which investigation has been completed.

Based on the information Special Agent Mitchell learned in his investigation, FSSA and other regulatory entities provide regular oversight of the Provider, as well as other Medicaid Waiver service providers. FSSA's DA may wish to prioritize the compliance audit scheduled for the Provider for 2020, due to questions that fell outside of the scope of the OIG's investigation, such as questions regarding staffing and supervision in residential homes and proper billing procedures.

The OIG's investigation found no evidence that any person violated the State Code of Ethics or the criminal code. The OIG also did not find evidence of the mishandling of state funds. As a result, the OIG is closing this case for insufficient cause.

Dated: October 15, 2019

APPROVED BY:



Lori Torres, Inspector General