

## **A YEAR LATER- A REVIEW OF ESELM AND BEHAVIORAL HEALTH**

- *In 2009 OptumHealth claims they start notifying HSD of billing errors with BH organizations. OptumHealth never contacts any provider to try and review or resolve any billing concerns or issues.*
- *November 2012 - OptumHealth, HSD and PCG go to Arizona to vet providers which HSD will later contract with to take over NM providers*
- *January 17, 2013- Diana McWilliams, CEO, NMBHC, and Coy Maienza, Clinical Director for NMBHC met with our agency and toured all our behavioral health facilities, programs and met many staff and consumers. Diana indicates her support for our programs and complimented our operations indicating her intent to work closely with us for a Core Service Designation and offers to provide technical assistance. She never indicated to us about any billing or utilization problems even though she apparently had in hand a C-16 report dated October 2012 from OptumHealth identifying certain providers of potential over-billing of certain codes.*
- *February-June 2013-PCG audit of 15 BH providers*
- *June 24, 2013- suspension and virtual elimination of NM behavioral Health providers reportedly based on PCG audit, alleged egregious clinical errors, alleged whistleblowers and questionable business practices.*
- *June 25, 2013- HSD budgets \$17.5m to pay Az. Providers to take over NM companies*
- *Sept 6-18, 2013 CMS and SAMSHA visit NM and hear hours of testimony from consumers describing disruption and elimination of their BH services*
- *Oct. 24, 2013- State Auditor releases parts of PCG audit stating “no credible allegations of fraud” found.*
- *November 4, 2013, 2 BH organizations strike deal with HSD and reimburse HSD over \$4m back to HSD. This money is then paid to the Arizona providers. No other B.H. provider was allowed to “negotiate” with HSD.*
- *December 2013- The public learns that HSD’s contracts with AZ companies provide them with due process protections to prevent the injustices that happened to the accused NM providers.*

- *February 27, 2014, state auditor releases report that identifies that over \$620,000 was unlawfully paid to AZ providers for improper expenses, startup costs and services not rendered. The report also indicates that State officials tampered with the findings of the original PCG audit and refers case to the federal Center for Medicare and Medicaid, Office of the Inspector General of the US Dept. of Health and Human Services.*
- **January 2013- AG clears Counseling Center of fraud.**
- **May 5, 2013 clears ESELM of fraud.**
- **July 3, 2013- HSD re-refers the same case back to AG.**

#### DIRECT EFFECTS TO ESELM

- ***ESELM served close to 250 children and families throughout Northern NM upon the termination of our services. According to OptumHealth for the first quarter of 2014, there are currently 99 unduplicated count of children served in our service area of Espanola, Taos and Raton. Specific to Rio Arriba County, Optum's report indicates 59 children being served. However first quarter reports from Molina, BC/BS, United and Molina, indicate there are zero children enrolled in their systems.***
- ***We believe this outcome was planned and intended by HSD, OptumHealth and Behavioral Health Collaborative.***
- *Specific to PCG audit, on June 4, 2013 we were contacted by PCG officials informing us that our case files scanned and copied by PCG were corrupted and compromised when they uploaded the data from their scanners into their data base. They asked us to scan all our files and send to them on a thumb drive. Our staff spent 3 days and nights re-producing the files. The integrity of this audit was compromised before it really began.*

- ***We were forced by HSD officials to “turn over” our business to an Arizona provider including all records, properties, staff lists and contacts, consumer files. Following advice from our attorney and review of Federal Law, we safeguarded our consumer patient private health information in accordance with HIPPA and other federal regulations. We also safeguarded our employee private information defying HSD attempts to pirate patient information without proper consents or releases.***
- ***In response to our resistance, HSD official Larry Heyeck identified himself as a representative of the AG’s office and went and met with our staff and told them not to cooperate with ESELM and told them I was a criminal and that we were frauds who were going to prison.***
- ***Larry Heyeck confiscated our records by contracting with an imaging company to take our consumer records out of our physical custody and copy them. He claims there was a court order requiring us to release all the records, however the court order was not executed and never gave possession to HSD the ownership of the records. Records were not returned for 6 months.***
- ***ESELM was comprehensively reviewed by the AG’s office for 8 months including our behavioral health, DD, business practices and whistleblower allegations from former disgruntled employee’s complaints. We were exonerated by the AG on May 5, 2014. The report issued by the AG states “procedure codes (for skills training and development (BMS) was examined to determine if this code was utilized to treat adolescents whose behavior assessments did not warrant this level of therapy. Upon examination of the claims, the MFEAD staff determined that utilization of this code fell within the guidelines established by the Behavioral Collaborative for the use of this code.” ESELM was re-referred for the same case to the AG on July 3, 2014.***
- ***Part of the definition of Fraud encompasses intent and personal gain. Our behavioral health operations for the period in review (2009-2012) had a significant net loss. Many of our administrative staff have taken significant salary reductions and have exhausted retirement funds to maintain services.***

- ***Due to the closure of our BH operations, we lost revenues of \$4.5m annually, approximately 35% of our business***
- ***Laid off 120+ behavioral health employees throughout Northern NM. We met with all of our employees and provided letters to the employees, HSD, OptumHealth and the children and families we served that our funds were suspended and we were forced to discontinue services to them.***
- ***Forced to fire sell our behavioral health assets to Arizona provider to survive.***
- ***ESELM has always cooperated and worked collaboratively with our state partners including OptumHealth and the Behavioral Health Collaborative. We believed we communicated and complied with all of OptumHealth rules, regulations and directives. For example, in September and November of 2012, we received Provider Alerts from Optum regarding Program Integrity and claims enhancements directives. These alerts outline initiatives and specific codes to identify any problems or outliers before a claims payment is made. We never had any problems identified or denied claims for services rendered by Optum.***
- ***ESELM is audited and reviewed continuously. For example, since June of 2013, our organization has been reviewed;***
  - ***46 separate occasions from DOH Licensing and Certification with over 50% of the results ending in deficiency free surveys.***
  - ***4 surveys by DOH Quality Improvement Bureau.***
  - ***2 Board of Pharmacy reviews encompassing 20 separate facilities.***
  - ***2 Board of Nursing reviews for annual certification for Certified Medication Administration.***
  - ***A review by Social Security Administration for all our consumer representative payee accounts.***
  - ***Department of Labor review of employment practices.***
  - ***Audit of our Trust Account services by the AG.***
  - ***Reviewed on all incident reports (self-reported) by DOH.***

- *Unfortunately as a result of these actions taken by HSD, 10 of NM behavioral health providers are bankrupt or have been forced out of business laying off hundreds of New Mexicans.*

**Presented by Mark Johnson, CEO**

**Easter Seals El Mirador**

