Audit Report

Driscoll Children's Health Plan
Special Investigative Unit

A Texas Medicaid Managed Care Organization

August 23, 2023
OIG Report No. AUD-23-032

Inspector General

Texas Health and Human Services

Driscoll Children's Health Plan Special Investigative Unit

A Texas Medicaid Managed Care Organization

Results in Brief

Why OIG Conducted This Audit

The Texas Health and Human Services (HHS) Office of Inspector General (OIG) conducts regular audits of selected managed care organizations' (MCOs') Special Investigative Unit (SIU) activities. OIG Audit performed a similar audit of Driscoll's SIU in 2018.

In 2021, Driscoll's total capitation payments were $956 million for Medicaid and $11 million for the Children's Health Insurance Program (CHIP). In 2022, Driscoll's total capitation payments were $1,213 million for Medicaid and $5 million for CHIP.

Summary of Review

The audit objective was to determine if Driscoll's SIU complied with certain state and contractual requirements related to (a) preventing, detecting, and investigating fraud, waste, and abuse and (b) reporting reliable information on SIU activities, results, and recoveries to the OIG.

The audit scope covered SIU activities in state fiscal years 2021 and 2022.

Background

The Texas Health and Human Services Commission (HHSC) requires MCOs to have an SIU to investigate potential fraud, waste, or abuse by members and health care service providers.

For more information, contact:
OIGAuditReports@hhs.texas.gov

Conclusion

The Driscoll Children's Health Plan (Driscoll) Special Investigative Unit (SIU) did not consistently comply with certain state and contractual requirements related to (a) preventing, detecting, and investigating fraud, waste, and abuse and (b) reporting reliable information on SIU activities, results, and recoveries to the Texas Health and Human Services (HHS) Office of Inspector General (OIG). Several issues of noncompliance identified in the 2018 audit remained uncorrected.

Key Results

Driscoll met certain requirements related to investigation activities and training. However:

- Driscoll did not dedicate the personnel necessary to the SIU to effectively conduct investigations. This hindered Driscoll's ability to detect, investigate, recover, and refer instances of fraud, waste, and abuse. Driscoll management asserted it did not commit sufficient staff or resources to comply with all SIU requirements.
- Of the 11 tested preliminary investigations, Driscoll (a) could not support that any were completed within 15 working days, (b) could not support that any of the required preliminary investigation elements were completed for 5 investigations, and (c) did not conduct a review of three years or the full range of the provider's payment history to determine if there were any suspicious indicators of fraud, waste or abuse for 3 investigations.
- One of 11 tested investigations tested was missing from the incidence log. Of the 10 tested investigations that appeared on the incidence log, (a) the status was incorrect for 3, (b) the allegation description was different for one, and (c) the date Driscoll received an allegation was not supported for any of the 10. MCOs must maintain a log of all incidences of suspected fraud, waste, or abuse they receive, regardless of the source. The incidence log is the record of all preliminary investigations for the SIU. If it contains errors, those errors are carried throughout the process and can lead to errors in reporting to the OIG.

Recommendations

Driscoll should:

- Strengthen resource commitment to the SIU to perform all tasks required by the SIU function.
- Strengthen or implement processes and controls for preliminary investigations to (a) include all required elements, (b) complete investigations within required timeframes, and (c) document dates of completion.
- Capture all required data accurately in its internal incidence log.
- Ensure it meets and adequately documents the timelines of completion of all extensive investigation elements.
- (a) Capture complete and accurate data on the Open Case List and (b) submit the Open Case List to the OIG by the required deadlines.
- (a) Submit referrals to the OIG for the four investigations that were not referred in which the SIU investigation determined possible acts of fraud, waste, or abuse had occurred in Medicaid or CHIP and (b) submit all findings of possible fraud, waste, or abuse to the OIG.
- (a) Remit the remaining $2,500 to the OIG and (b) designate sufficient staff or other resources to timely remit half of recovered funds when an SIU investigation determined fraud or abuse occurred in Medicaid or CHIP.
- Include training requirements in subcontracts and verify subcontractors directly involved with Texas Medicaid or CHIP receive fraud, waste, and abuse training within 90 days of employment and annually thereafter.

- Driscoll did not support that it met required timelines for extensive investigations. Driscoll could not support that it selected samples within 15 working days of completing preliminary investigation activities or requested medical or dental records and encounter data from the provider related to the samples within 15 working days of sample selection.
- The MCO Open Case List Report was not always complete, accurate, or timely. Of the 11 investigations tested, 4 were omitted from the report and 7 contained inaccuracies.
- Driscoll did not always refer all possible acts of fraud, waste, and abuse to the OIG. Four of the five (80 percent) completed extensive investigations that identified possible acts of fraud, waste, or abuse were not referred to OIG.
- Five of the six extensive investigations tested identified fraud or abuse and resulted in recoveries in the amount of $28,738.55. Driscoll did not timely remit $14,369.28—half of the amount recovered from the five investigations—to the OIG.
- Driscoll did not verify that all its subcontractors' employees received required fraud, waste, abuse training. Driscoll's contract with one of three subcontractors reviewed by OIG Audit did not include a requirement for subcontractor employees to receive fraud, waste, and abuse training.

Management Response

OIG Audit presented preliminary audit results, issues, and recommendations to Driscoll in a draft report dated July 25, 2023. Driscoll agreed with the audit recommendations and indicated corrective actions would be implemented by December 2023. Driscoll's management responses are included in the report following the recommendations.

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Audit Overview

Overall Conclusion

The Driscoll Children's Health Plan (Driscoll) Special Investigative Unit (SIU) did not consistently comply with certain state and contractual requirements related to (a) preventing, detecting, and investigating fraud, waste, and abuse and (b) reporting reliable information on SIU activities, results, and recoveries to the Texas Health and Human Services (HHS) Office of Inspector General (OIG).

Objective

The audit objective was to determine if Driscoll's SIU complied with certain state and contractual requirements related to (a) preventing, detecting, and investigating fraud, waste, and abuse and (b) reporting reliable information on SIU activities, results, and recoveries to the OIG.

Scope

The audit scope covered SIU activities for the period from September 1, 2020, to August 31, 2022.

Key Audit Results

The HHS OIG Audit and Inspections Division (OIG Audit) conducted an audit of SIU activities at Driscoll, a Medicaid and Children's Health Insurance Program (CHIP) managed care organization (MCO). Driscoll met certain requirements related to investigation activities and training.

OIG Audit performed a similar audit of Driscoll's SIU in 2018, and several issues of noncompliance identified at that time remained uncorrected. Specifically, Driscoll did not:[1]

- Allocate staff and resources to effectively conduct Texas investigations.
- Maintain support that it met required timelines in its preliminary investigations.
- Maintain a complete and accurate incidence log.

[1] Texas HHS Office of Inspector General, *Audit of Medicaid and CHIP MCO Special Investigative Units: Driscoll Health Plan*, OIG Report No. AUD-18-012 (Apr. 3, 2018).

- Always meet required timelines or maintain support that it met required timelines in its extensive investigations.
- Always submit information to the OIG on the MCO Open Case List Report timely, completely, and accurately.
- Always refer possible acts of fraud, waste, and abuse to the OIG.

This audit also includes previously unidentified issues, including that Driscoll did not:

- Always include required elements in preliminary investigations.
- Remit half of fraud or abuse recoveries to the OIG.
- Verify that all its subcontractors received fraud, waste, and abuse training.

The "Detailed Audit Results" section of this report presents additional information about the audit results and is considered written education in accordance with Texas Administrative Code.[2] In addition, previously identified, uncorrected audit issues in this report may be subject to liquidated damages or OIG administrative enforcement measures,[3] including administrative penalties.[4] Unless otherwise described, any year referenced is the state fiscal year, which covers the period from September 1 through August 31.

OIG Audit presented preliminary audit results, issues, and recommendations to Driscoll in a draft report dated July 25, 2023. Driscoll agreed with the audit recommendations and indicated corrective actions would be implemented by December 2023. Driscoll's management responses are included in the report following the recommendations. OIG Audit communicated other, less significant issues to Driscoll in a separate written communication.

OIG Audit thanks management and staff at Driscoll for their cooperation and assistance during this audit.

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[2] 1 Tex. Admin. Code § 371.1701 (May 1, 2016).

[3] 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

[4] Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).

Key Program Data

The Texas Health and Human Services Commission (HHSC) contracts with Driscoll to coordinate health services in Texas for members enrolled in the Medicaid State of Texas Access Reform (STAR) program, the STAR Kids program, and CHIP.[5] Driscoll is a Texas Department of Insurance–licensed MCO that provides Medicaid and CHIP services through its network of providers.

In 2021, Driscoll's total enrolled member months was 2,566,771 for Medicaid and 52,535 for CHIP. In 2022, Driscoll's total enrolled member months was 2,915,546 for Medicaid and 22,399 for CHIP. Table 1 shows Driscoll's capitation payments by program.

Table 1: Driscoll's Capitation Payments by Program[6]

Program	2021	2022	Total
STAR and STAR Kids	$956,151,124	$1,212,528,535	$2,168,679,659
CHIP	11,003,523	5,312,729	16,316,252
Total	$967,154,647	$1,217,841,264	$2,184,995,911

Source: HHSC 2021 Q-4 and 2022 Q-4 Financial Statistical Reports

HHSC requires MCOs to establish and maintain an SIU to investigate potential fraud, waste, or abuse by members and health care service providers.[7]

Auditing Standards

Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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[5] The managed care contracts relevant to this audit include the Uniform Managed Care Contract and the STAR Kids Contract. The Uniform Managed Care Contract is used for referencing contract requirements for this report.

[6] Amounts reflect only medical and pharmacy capitation payments.

[7] Uniform Managed Care Contract, Attachment B-1 § 8.1.19.1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

Detailed Audit Results

Driscoll complied with certain state and contractual requirements related to (a) preventing, detecting, and investigating fraud, waste, and abuse and (b) reporting reliable information on SIU activities, results, and recoveries to the OIG. Specifically, Driscoll:

- Chose required minimum sample sizes as part of its extensive investigation activities or justified why the sample size was less than the required minimum.
- Began payment recovery efforts when it discovered fraud or abuse in Medicaid or CHIP.
- Provided its employees required fraud, waste, and abuse training within 90 days of hire and annually thereafter.

The following sections of this report provide details about the findings of noncompliance identified by OIG Audit.

SIU Staff Resources

The Uniform Managed Care Contract requires Driscoll to employ or subcontract, at minimum, one full time investigator, in addition to the SIU manager, who are both dedicated solely to the services provided under Texas Medicaid and CHIP. Additionally, the contract requires Driscoll to have adequate staff and resources to effectively conduct Texas investigations.[8]

Chapter 1: Driscoll Did Not Dedicate the Personnel Necessary to the SIU to Effectively Conduct Investigations

Although Driscoll maintained an SIU, it allocated limited staff to support SIU functions. Driscoll asserted that its SIU consisted of three staff who each spent approximately one-third of their time performing SIU activities associated with Texas Medicaid and CHIP programs:

- The SIU manager
- Two health plan business/clinical analysts

Driscoll asserted the remainder of the employees' time was dedicated to program integrity duties, such as oversight of the Lock-In Program[9] and performing Health Insurance Portability and Accounting Act of 1996 (HIPAA) compliance walk-through audits. While these efforts represent controls to reduce fraud, waste, and abuse, they do not constitute SIU investigative activities.

Driscoll management asserted it did not commit sufficient staff or resources to comply with all SIU requirements. The OIG's audit of Driscoll's SIU in 2018 also determined Driscoll did not commit personnel resources necessary to the SIU to

[8] Uniform Managed Care Contract, Attachment B-1 § 8.1.19.1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

[9] HHS OIG's Lock-in Program restricts, or locks in, a Medicaid member to a designated pharmacy if it finds that the member used Medicaid services, including drugs, at a frequency or amount that is duplicative, excessive, contraindicated, or conflicting; or that the member's actions indicate abuse, misuse, or fraud.

effectively conduct investigations. This hinders Driscoll's ability to detect, investigate, recover, and refer instances of fraud, waste, and abuse and does not comply with the Uniform Managed Care Contract.

Recommendation 1

Driscoll should strengthen its resource commitment to its SIU function by ensuring that it assigns adequate personnel resources to the SIU to perform all tasks required by the SIU function.

Management Response

Action Plan

Driscoll maintains a strong commitment to dedicating adequate personnel resources to the SIU to ensure all tasks are performed by the SIU function as required. Driscoll's SIU currently consists of the Director of Special Investigations, SIU Senior Analyst and three additional SIU staff members. Driscoll will strengthen its resource commitment to its SIU function by continuing to commit adequate staff and resources to the SIU in order to effectively conduct Texas investigations. Driscoll will ensure that the Director of Special Investigations and SIU Senior Analyst are both dedicated solely to the Fraud, Waste and Abuse (FWA) services provided under Texas Medicaid and CHIP through a reassignment of non-FWA activities to other Driscoll staff members.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Auditor Comment

The evidence provided by Driscoll indicated the SIU fraud, waste, and abuse investigatory function was performed only by the SIU manager and two analysts.

Preliminary Investigations

MCOs are responsible for investigating possible acts of fraud, waste, and abuse for all services, starting with a preliminary investigation. Driscoll must complete a preliminary investigation within 15 working days of the identification or reporting of suspected or potential fraud, waste, or abuse by providers. Preliminary provider investigations must include the following elements:[10]

- Determining if the MCO has received any previous reports of suspected fraud, waste, or abuse or conducted any previous investigations of the provider in question.
- Determining if the provider has received educational training from the MCO regarding the allegation.
- Reviewing the provider's billing patterns for any suspicious indicators.
- Reviewing the provider's payment history for the past three years, if available, to identify any suspicious indicators.
- Determining whether the investigated allegation is a violation of program policy or procedure.

[10] 1 Tex. Admin. Code §§ 353.502 (c)(2) (July 18, 2019) and 370.502 (c)(2) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

Chapter 2: Preliminary Investigations Did Not Always Contain Required Elements or Support That Required Timelines Were Met

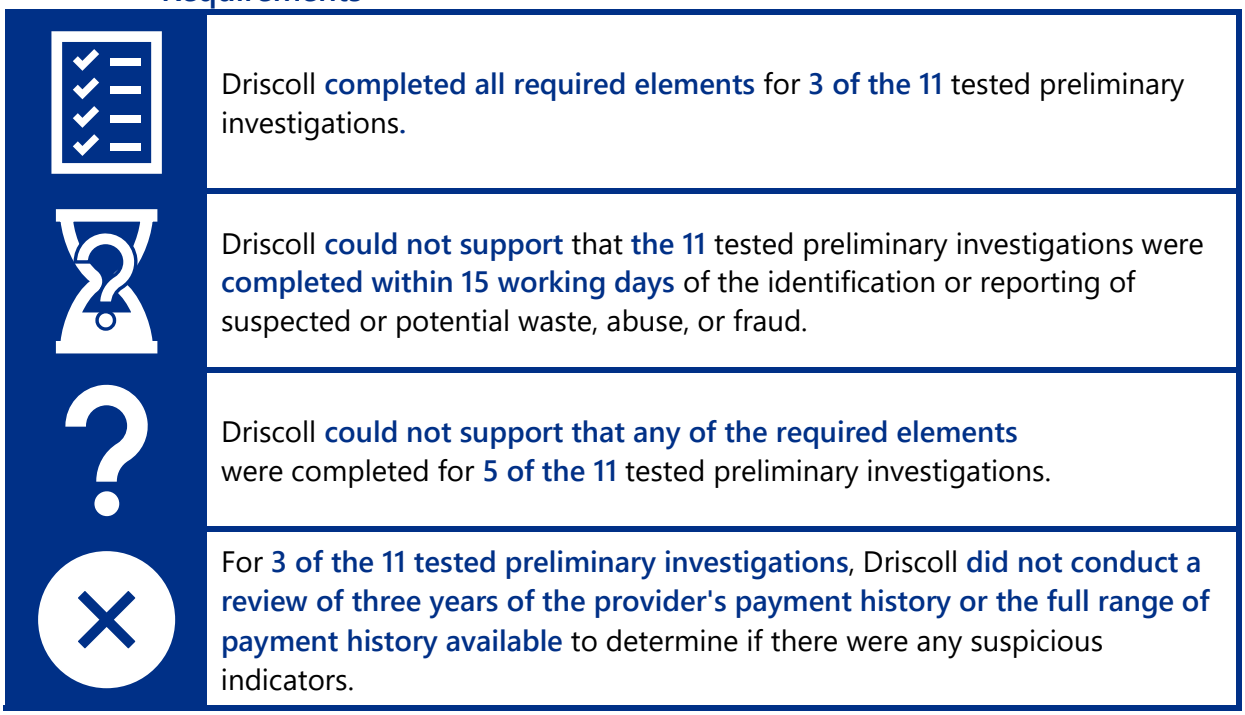
Out of 11 preliminary investigations tested:

- 6 were conducted by Driscoll's SIU.
- 5 were referred to Driscoll by its subcontracted pharmacy benefits manager.

Driscoll performed all the required elements of a preliminary provider investigation for three of the six investigations it conducted. However, Driscoll did not review three years of payment history or the full range of payment history available for the remaining three (50 percent) investigations it conducted; it completed all other elements for those three investigations.

Figure 1 summarizes Driscoll's compliance with requirements for the 11 preliminary provider investigations tested, including completion of the preliminary provider investigation within 15 days.

Figure 1: Driscoll's Compliance with Preliminary Provider Investigation Requirements



Source: OIG Audit

In addition, Driscoll could not provide support that it completed the required preliminary provider investigation elements for the five investigations that its pharmacy benefits manager referred. The OIG's audit of Driscoll's SIU in 2018 also determined Driscoll did not conduct preliminary investigations within required timeframes.

Driscoll did not have sufficient processes and controls to ensure that it (a) completed preliminary provider investigations within 15 working days of suspected fraud, waste, or abuse being identified or reported and (b) consistently completed all required preliminary investigation elements.

Omitting required elements from review hinders the effectiveness of the preliminary investigation and may impede detection of potential fraud, waste, and abuse committed by the provider. Performing the required elements may help determine whether a pattern of inappropriate behavior exists. Additionally, conducting timely preliminary investigations and performing all required elements helps ensure Driscoll (a) effectively investigates potential fraud, waste, and abuse, (b) timely identifies overpayments and recovers Medicaid and CHIP funds, and (c) appropriately reports SIU activities and results to the OIG.

Recommendation 2

For preliminary investigations, including those referred by subcontractors, Driscoll should:

- Strengthen processes and controls to include all required elements.
- Develop and implement processes and controls to complete investigations within required timeframes and document dates of completion.

Management Response

Action Plan

Driscoll will enhance its current SIU investigative processes and controls through the implementation of an automated database system. The system will capture required investigation data element fields including dates of investigation completion. In addition, the system will provide alerts for approaching investigation deadlines to ensure SIU preliminary provider investigations are completed within 15 working days of suspected FWA being

identified or reported and that all other required preliminary investigation elements are completed.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Chapter 3: Driscoll's Incidence Log Was Incomplete and Inaccurate

MCOs must maintain a log of all incidences of suspected fraud, waste, or abuse they receive, regardless of the source. The log must contain the subject of the complaint, the source, the allegation, the date the allegation was received, the provider's Medicaid or CHIP number, and the status of the investigation.[11] The incidence log is the record of all preliminary investigations for the SIU. If it contains errors, those errors are carried throughout the process and can lead to errors in reporting to the OIG.

Driscoll's incidence log (a) did not include all investigations tested and (b) included information that source documents did not support. Specifically, one of 11 investigations tested was missing from the incidence log. Of the ten tested investigations that appeared on the incidence log, auditors identified the following disparities with source documents:

- The status was incorrect for three (30 percent) investigations.
- The allegation description was different for one (10 percent) investigation.
- The date Driscoll received an allegation was not supported for any of the ten investigations.

Driscoll did not have processes and controls to consistently verify (a) its incidence log captured all required data and (b) the data maintained in the log were

[11] 1 Tex. Admin. Code §§ 353.502 (d)(2) (July 18, 2019) and 370.502 (d)(2) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

accurate. The OIG's audit of Driscoll's SIU in 2018 also determined Driscoll's incidence log contained inaccurate and incomplete information.

Documenting inaccurate and incomplete information about incidences of suspected fraud, waste, or abuse, including the date of allegation, could (a) impede Driscoll's ability to complete preliminary investigations within the required timeframes and (b) lead to inaccurate data reported to the OIG about SIU investigations, which may limit the OIG's ability to effectively analyze encounter data, evaluate evidence, and determine whether to pursue fraud, waste, and abuse recoveries.

Recommendation 3

Driscoll should develop and implement processes and controls to capture all required data accurately in its incidence log.

Management Response

Action Plan

Driscoll will enhance its current SIU investigative processes and controls through the implementation of an automated database system. The system will ensure the accurate capture of all required investigation data element fields required for the SIU incidence log. Implementation of the system with additional processes to verify data accuracy and integrity of incidence log data will augment Driscoll's ability to complete preliminary investigations within required timeframes and ensure that accurate and complete SIU investigative data are reported to the OIG.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Extensive Investigations

Driscoll must perform an extensive investigation if it determines during the preliminary provider investigation that suspicious indicators of possible fraud, waste, or abuse exist. An extensive investigation involves additional required elements, including (a) selecting a sample of claims for review, (b) requesting the records, and (c) reviewing the records.[12]

Driscoll has 15 working days after completing a preliminary investigation to select a sample of claims for review and, after selecting the sample, Driscoll has an additional 15 working days to request medical or dental records and encounter data from the provider.[13] Driscoll must review the requested records and encounter data within 45 working days of receipt of those records to:

- Validate the sufficiency of service delivery data and to assess utilization and quality of care.
- Ensure encounter data submitted by the provider are accurate.
- Evaluate whether review of other pertinent records is necessary to determine whether fraud, waste, or abuse has occurred. If review of additional records is necessary, then conduct such a review.[14]

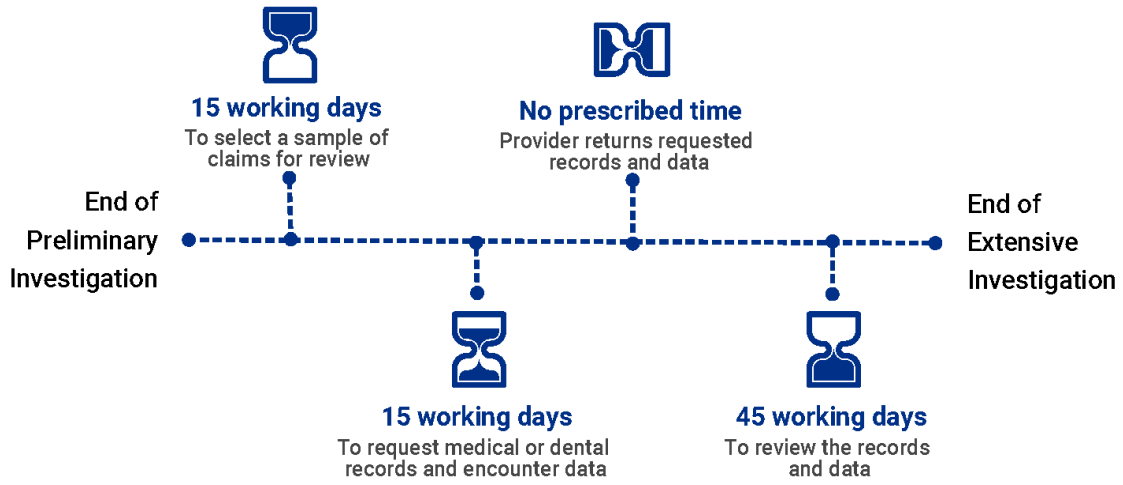
[12] 1 Tex. Admin. Code §§ 353.502 (c)(2)(C) (July 18, 2019) and 370.502 (c)(2)(C) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

[13] 1 Tex. Admin. Code §§ 353.502 (c)(2)(C)(i) (July 18, 2019) and 370.502 (c)(2)(C)(i) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

[14] 1 Tex. Admin. Code §§ 353.502 (c)(2)(C)(ii) (July 18, 2019) and 370.502 (c)(2)(C)(ii) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

Figure 2 details the required timelines for each task in an extensive investigation.

Figure 2: Timeline of Tasks in an Extensive Investigation



Source: OIG Audit

Chapter 4: Driscoll Did Not Support Required Timelines Were Met for Extensive Investigations

Driscoll found suspicious indicators of fraud, waste, and abuse in 6 of the 11 preliminary provider investigations tested. While Driscoll performed extensive investigations to determine whether fraud, waste, or abuse had occurred in all 6 of those investigations, Driscoll did not document the date it selected the samples; therefore, Driscoll could not support that it:

- Selected samples within 15 working days of completing preliminary investigations.
- Requested medical or dental records and encounter data from the provider related to the samples within 15 working days of selecting the sample.

In addition, Driscoll did not review medical records within 45 working days of receiving them from the provider in one of six extensive investigations tested. Driscoll indicated it completed the review 179 working days after receiving the records from the provider. Driscoll management asserted it did not commit sufficient staff or resources to complete the medical or dental records and encounter data review within 45 days of receipt from the provider.

The OIG's audit of Driscoll's SIU in 2018 also determined Driscoll did not conduct extensive investigations within required timeframes.

Delays in extensive investigations can impair Driscoll's ability to mitigate fraud, waste, and abuse in Medicaid or CHIP. Delays are also obstacles to (a) effectively investigating potential fraud, waste, and abuse, (b) timely identifying overpayments and recovering Medicaid and CHIP funds, and (c) accurately and timely reporting SIU activities and results to the OIG.

Recommendation 4

Driscoll should develop and implement processes to meet and document the following timelines:

- Selection of providers' claims samples related to suspected fraud, waste, or abuse within 15 working days of completing a preliminary investigation that had suspicious indicators of fraud, waste, or abuse.
- Request for medical records, dental records, and encounter data related to claims selected for review within 15 working days of choosing the sample.
- Review of requested medical records, dental records, and encounter data within 45 working days of receipt.

Management Response

Action Plan

Driscoll will enhance its current SIU processes to meet and document extensive investigations through the implementation of an automated database system. The system will ensure the capture of required timelines including, but not limited to, the selection of providers' claims samples related to suspected FWA within the required 15 working days of completing a preliminary investigation and the request of medical records, dental records and encounter data related to claims within the required 15 working days of choosing the sample and the review of records within 45 working days of receipt. Implementation of the system will mitigate delays and obstacles to FWA investigations, the timely identification of overpayments and recovery of Medicaid and CHIP funds, as well as the accurate and timely reporting of SIU activities and results to the OIG.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

SIU Responsibilities to the OIG

MCOs are responsible to the OIG for the following:

- Reporting monthly all investigations opened by their SIUs and the status of each investigation.[15]
- Submitting referrals for possible acts of fraud, waste, or abuse to the OIG within the required timeframe.[16]
- Remitting to the OIG half the recoveries related to fraud or abuse findings as a result of an SIU investigation.[17]

The OIG's ability to effectively analyze encounter data, evaluate evidence, determine whether to pursue fraud, waste, and abuse recoveries, and coordinate and oversee efforts to mitigate fraud, waste, and abuse throughout Texas Medicaid and CHIP is strengthened when MCOs report timely and consistently.

[15] Uniformed Managed Care Manual, Chapter 5.5.1, v. 2.1 (Apr. 26, 2019) and v. 2.2 (May 30, 2022,) and Chapter 5.5.2, v. 2.5 (Nov. 1, 2019) and v 2.6 (Feb. 15, 2022).

[16] 1 Tex. Admin. Code §§ 353.502 (c)(5)(D) (July 18, 2019) and 370.502 (c)(5)(D) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

[17] Texas Government Code § 531.1131 (Sept. 1, 2019).

Figure 3 summarizes the disposition of tested investigations and expected referrals.

Figure 3: Investigations Sampled and Reporting Issues Identified

11	Preliminary investigations sampled.
6	Extensive investigations conducted by the SIU following preliminary investigations.
5	Completed extensive investigations with conclusions of possible acts of fraud, waste, or abuse and recovered a total of $28,738.55.
1	Conclusions of possible fraud, waste, or abuse referred to the OIG.
$14,369.28	Half of recoupment not remitted to the OIG for all 5 completed investigations with findings of fraud or abuse.

Source: OIG Audit

Chapter 5: The MCO Open Case List Report Was Not Always Complete, Accurate, or Timely

The HHSC Uniform Managed Care Manual requires MCOs to submit a monthly report to the OIG of all Medicaid fraud, waste, and abuse investigations opened by their SIU and the status of each investigation.[18] This report is referred to as the MCO Open Case List Report.

Of the 11 investigations tested:

- 4 (36 percent) were omitted from the MCO Open Case List Reports for all 24 months reviewed.
- 7 (64 percent) were reported on the MCO Open Case List Report but contained inaccuracies, specifically:
    - 4 contained inaccurate information in the field "time period in question."
    - 6 contained inaccurate information in the field "date the allegation was received."

Of the seven investigations Driscoll reported in the MCO Open Case List Reports:

- Two (29 percent) were not included on the MCO Open Case List Report for the month they were opened.
- Five (71 percent) were reported timely.

Additionally, of the 24 monthly Open Case List Reports Driscoll was required to submit, 8 (33 percent) were blank. In July 2022, HHSC Managed Care Contracts and Oversight imposed contractual remedies on Driscoll for these instances of non-compliance.

The OIG's audit of Driscoll's SIU in 2018 also determined Driscoll reported incomplete information in its MCO Open Case List Report.

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[18] Uniformed Managed Care Manual, Chapter 5.5.1, v. 2.1, (Apr. 26, 2019) and v. 2.2 (May 30, 2022) and Chapter 5.5.2, v. 2.5 (Nov. 1, 2019) and v 2.6 (Feb. 15, 2022).

Driscoll asserted that its information technology department was responsible for submitting Driscoll's MCO Open Case List Report to the OIG, but it was not submitting the report to the OIG by established deadlines. In addition, Driscoll asserted that its MCO Open Case List Report was being upgraded during the audit scope into a single application to fulfill the requirements of Driscoll's incidence log and Driscoll's MCO Open Case List Report. Driscoll further asserted that while the MCO Open Case List Report was being upgraded, the enhancements were not fully functioning, causing issues with reporting accurate, complete, and timely data to the OIG.

Recommendation 5

Driscoll should strengthen processes and controls to:

- Submit complete and accurate data on the MCO Open Case List Report.
- Submit the MCO Open Case List Reports to the OIG by the required deadlines.

Management Response

Action Plan

Driscoll will strengthen its current SIU investigative processes and controls to develop and submit the SIU monthly MCO Open Case List Report to the OIG through the implementation of an automated database system. The system will ensure the complete and accurate capture of investigation data elements required for the MCO Open Case List Report. Implementation of the system with additional operational process enhancements will centralize the development and submission of the MCO Open Case List Report to the SIU and ensure the timely submission of the report to the OIG by the required deadlines.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Chapter 6: Driscoll Did Not Always Refer Possible Acts of Fraud, Waste, and Abuse to the OIG

Driscoll must assign an officer to report to the OIG all investigations resulting in a finding of possible acts of fraud, waste, or abuse. The assigned officer must notify and refer these acts to the OIG within 30 working days of receiving reports of possible acts of fraud, waste, or abuse identified in an SIU extensive investigation.[19]

Of the five completed extensive investigations that identified possible acts of fraud, waste, or abuse, Driscoll had not referred four (80 percent) to the OIG as of December 29, 2022. Driscoll completed three of the four investigations not referred to the OIG in June and July 2022. Driscoll could not provide support for when it completed the fourth investigation. Driscoll asserted it did not have sufficient staff to submit referrals to the OIG within 30 days of the completion of an SIU investigation that determined fraud or abuse had occurred in Medicaid or CHIP.

The OIG's audit of Driscoll's SIU in 2018 also determined Driscoll did not refer all possible acts of fraud, waste, and abuse to the OIG.

The OIG's ability to effectively investigate potential fraud, waste, and abuse throughout Medicaid and CHIP is limited when MCOs do not consistently refer required information.

[19] 1 Tex. Admin. Code §§ 353.502 (c)(5) (July 18, 2019) and 370.502 (c)(5) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

Recommendation 6

Driscoll should:

- Submit referrals to the OIG for the four investigations that were not referred in which the SIU investigation determined possible acts of fraud, waste, or abuse had occurred in Medicaid or CHIP.
- Develop and implement processes and controls to submit all findings of possible fraud, waste, or abuse to the OIG, as required.

Management Response

Action Plan

Driscoll's Director of Special Investigations is assigned to report to the OIG all investigations resulting in a finding of possible acts of FWA. The Director will submit referrals to the OIG for the four investigations that were not referred and ensure that future referral processes are reviewed, augmented, and aligned with contractual and statutory requirements to facilitate the accurate and timely reporting of possible acts of FWA to the OIG within required timeframes.

Driscoll will also enhance its current FWA detection and prevention strategies as well as SIU investigative processes and controls related to the reporting of possible FWA through the implementation of an automated database system.

This automated database system will complement Driscoll's existing cloud-based artificial intelligence (AI) data analyzing detection application which allows Driscoll to prioritize suspicious claims and implement real-time interventions based on behavior insights gathered from Members, Providers, facilities, and pharmacies. The AI application is central to Driscoll's commitment to a culture of prevention. The new automated database system will capture all required data elements and ensure that appropriate referrals are submitted to the OIG within required timeframes.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Chapter 7: Driscoll Did Not Remit Half of Recoveries to the OIG

MCOs must remit half of any overpayment recovered from a discovery that fraud or abuse has occurred in Medicaid or CHIP to the OIG.[20]

The five completed extensive investigations tested that identified fraud or abuse resulted in recoveries in the amount of $28,738.55. Driscoll did not remit $14,369.28—half of the amount recovered from the five investigations—to the OIG as of completion of the audit fieldwork.

The $14,369.28 not remitted to the OIG represents a loss of state funds and hinders the OIG's efforts to measure SIU performance.

Driscoll asserted it did not have sufficient staff to remit half of any recoveries related to SIU investigations to the OIG.

Recommendation 7

Driscoll should:

- Remit $14,369.28 to the OIG from the SIU investigations that determined fraud or abuse had occurred in Medicaid or CHIP.
- Designate sufficient staff or other resources to timely remit half of recovered funds when an SIU investigation determined fraud or abuse occurred in Medicaid or CHIP.

Management Response

Action Plan

On July 7, 2023, Driscoll remitted all state shares for FY2021 and FY2022 to the OIG. The remaining payment of the state share for the one provider, who was on a payment plan and whose recovery carried over into FY2023, will be remitted by the end of State FY2023.

[20] Texas Government Code § 531.1131 (Sept. 1, 2019).

Driscoll will ensure that sufficient staff timely remit recoveries to the OIG when SIU investigations have determined fraud or abuse occurred in Medicaid or CHIP.

Driscoll will also enhance its current FWA detection and prevention strategies as well as SIU investigative processes and controls related to the reporting of possible FWA through the implementation of an automated database system. The system will capture all required data elements and ensure that remittance of shared recoveries is submitted to the OIG within required timeframes.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Auditor Comment

In July 2023, Driscoll remitted $11,869.28 of the $14,369.28 to the OIG for recoveries associated with the five extensive investigations. Driscoll should remit the remaining $2,500 to the OIG.

Fraud, Waste, and Abuse Training Requirements

Driscoll must ensure that fraud, waste, and abuse training is provided annually to each employee and subcontractor who is directly involved in any aspect of Medicaid or CHIP. Additionally, Driscoll must provide fraud, waste, and abuse training to all new MCO and subcontractor staff who will be directly involved with any aspect of Medicaid or CHIP within 90 days of their employment date.[21]

Chapter 8: Subcontractors Did Not Always Receive Fraud, Waste, and Abuse Training

While Driscoll employees received the required fraud, waste, and abuse training, Driscoll did not verify that all its subcontractors' employees received required training. Driscoll's contract with one of three subcontractors reviewed by OIG Audit did not include a requirement for subcontractor employees to receive fraud, waste, and abuse training. Employees at this subcontractor did not receive the required 90 day or annual fraud, waste, and abuse training.

The likelihood of detecting potential fraud, waste, and abuse may be decreased when training is not provided.

Recommendation 8

Driscoll should:

- Include fraud, waste, and abuse training requirements in subcontracts.
- Develop and implement processes and controls to verify whether subcontractors directly involved with Texas Medicaid or CHIP receive fraud, waste, and abuse training within 90 days of employment and annually thereafter.

[21] 1 Tex. Admin. Code §§ 353.502 (c)(6) (July 18, 2019) and 370.502 (c)(6) (Mar. 1, 2012); Uniform Managed Care Contract, Attachments B-1 § 8.1.19.1 and B-3, Item IG-1, v. 2.31 (Sept. 1, 2020) through v. 2.35 (Mar. 1, 2022).

Management Response

Action Plan

SIU will require and ensure all new MCO and subcontractor staff who will be directly involved with any aspect of Medicaid or CHIP take the OIG MCO FWA training within 90 days of their employment date and then on an annual basis thereafter. SIU will maintain evidence of each applicable MCO and subcontractor staff member's training completion.

Responsible Manager

Director of Special Investigations

Target Implementation Date

December 1, 2023

Appendix A: Objective, Scope, and Criteria

Objective and Scope

The audit objective was to determine if Driscoll's SIU complied with certain state and contractual requirements related to (a) preventing, detecting, and investigating fraud, waste, and abuse and (b) reporting reliable information on SIU activities, results, and recoveries to the OIG.

The audit scope covered SIU activities for the period from September 1, 2020, to August 31, 2022.

Criteria

OIG Audit used the following criteria to evaluate the information provided:

- Texas Government Code §531.1131 (2019)
- 1 Tex. Admin. Code §§ 353.502 and 505 (2019)
- 1 Tex. Admin. Code §§ 370.502 and 505 (2012)
- Uniformed Managed Care Manual, Chapter 5.5.1, Versions 2.1 and 2.2 (2019 and 2022) and Chapter 5.5.2, Versions 2.5 and 2.6 (2019 and 2022)
- Uniform Managed Care Contract, v. 2.31 (2020) through 2.35 (2022)

Appendix B: Detailed Methodology

To accomplish its objectives, OIG Audit collected information for this audit through interviews with responsible staff at Driscoll, and through request and review of the following information:

- A description of the SIU function and organizational structure.
- Policies and processes associated with prevention, detection, investigation, disposition, and reporting of fraud, waste, and abuse.
- Data and other supporting evidence related to SIU performance, including investigations, recoveries, and referrals in 2021 and 2022.
- Significant internal controls, including components of internal control, within context of the audit objectives.[22]

Specifically, OIG Audit tested a sample of investigations to determine whether:

- The incidence log included complete and accurate data.
- Driscoll's SIU performed preliminary and extensive investitive activities, as applicable, within required timelines and included required elements.
- Driscoll submitted the MCO Open Case List Report within required timelines and included complete and accurate data.
- Driscoll made fraud, waste, and abuse referrals to the OIG within required timelines and included required information.
- Driscoll started payment recovery efforts when it identified fraud or abuse.
- Driscoll remitted half of all recoveries related to the identification of fraud or abuse to the OIG.

[22] For more information on the components of internal control, see the United States Government Accountability Office's "Standards for Internal Control in the Federal Government" (Sept. 2014), https://www.gao.gov/assets/gao-14-704g.pdf (accessed Apr. 16, 2021).

In addition, OIG Audit tested a sample of Driscoll and subcontractor employees to determine whether they completed the required training.

Data Reliability

To assess the reliability of data, auditors (a) traced and reconciled selected records to source documents to assess completeness, (b) observed the process of producing the datasets, and (c) interviewed relevant Driscoll staff knowledgeable about the data.

Auditors concluded the data regarding the investigations and subcontractors' employees were of undetermined reliability; however, the Driscoll case list and population of applicable subcontractors' employees were the best sources of data available for the purposes of this audit. The auditors concluded the data related to Driscoll employees was sufficiently reliable for the purposes of this audit.

Sampling Methodology

Investigations

OIG auditors selected risk-based, nonstatistical samples of investigations for testing to address specific risk factors, such as case start and end date and disposition, identified in the population.

The sample items were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population.

Training

Auditors selected risk-based, nonstatistical samples of employee and subcontractor populations for testing to address specific factors, such as position and start date, identified in the population. The sample items were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population.

Table 2 lists the populations and sample sizes tested for employees for Driscoll and the identified subcontractors.

Table 2: Driscoll and Subcontractor Employee Populations and Samples

Employer	Population	Sample
Driscoll	161	32
Subcontractor A	27	9
Subcontractor B	116	8
Subcontractor C	298	8

Source: OIG Audit

Appendix C: Summary of Recommendations

Table C: Summary of Recommendations to Driscoll Children's Health Plan

No.	Recommendation
1	Driscoll should strengthen its resource commitment to its SIU function by ensuring that it assigns adequate personnel resources to the SIU to perform all tasks required by the SIU function.
2	For preliminary investigations, including those referred by subcontractors, Driscoll should: • Strengthen processes and controls to include all required elements. • Develop and implement processes and controls to complete investigations within required timeframes and document dates of completion.
3	Driscoll should develop and implement processes and controls to capture all required data accurately in its incidence log.
4	Driscoll should develop and implement processes to meet and document the following timelines: • Selection of providers' claims samples related to suspected fraud, waste, or abuse within 15 working days of completing a preliminary investigation that had suspicious indicators of fraud, waste, or abuse. • Request for medical records, dental records, and encounter data related to claims selected for review within 15 working days of choosing the sample. • Review of requested medical records, dental records, and encounter data within 45 working days of receipt.
5	Driscoll should strengthen processes and controls to: • Submit complete and accurate data on the MCO Open Case List Report. • Submit the MCO Open Case List Report to the OIG by the required deadlines.

No.	Recommendation
6	Driscoll should: • Submit referrals to the OIG for the four investigations that were not referred in which the SIU investigation determined possible acts of fraud, waste, or abuse had occurred in Medicaid or CHIP. • Develop and implement processes and controls to submit all findings of possible fraud, waste, or abuse to the OIG, as required.
7	Driscoll should: • Remit $2,500 to the OIG from the remaining SIU investigations that determined fraud or abuse had occurred in Medicaid or CHIP.[23] • Designate sufficient staff or other resources to timely remit half of recovered funds when an SIU investigation determined fraud or abuse occurred in Medicaid or CHIP.
8	Driscoll should: • Include fraud, waste, and abuse training requirements in subcontracts. • Develop and implement processes and controls to verify whether subcontractors directly involved with Texas Medicaid or CHIP receive fraud, waste, and abuse training within 90 days of employment and annually thereafter.

Source: OIG Audit

[23] OIG Audit identified $14,369.28 that Driscoll had yet to remit from the five extensive SIU investigations that determined fraud or abuse had occurred in Medicaid or CHIP. In July 2023, Driscoll remitted $11,869.28 of the identified $14,369.28 to the OIG. Driscoll should remit the remaining $2,500 to the OIG.

Appendix D: Related Reports

- Parkland Community Health Plan: Special Investigative Unit, AUD-23-023, August 10, 2023
- Summary of Results: Audits of Medicaid and CHIP MCO Special Investigative Units, AUD-23-003, November 28, 2022
- Community First Health Plans, Inc.: Special Investigative Unit, AUD-22-008, April 28, 2022
- Aetna Better Health of Texas: Special Investigative Unit, AUD-21-023, August 18, 2021
- Audit of Medicaid and CHIP MCO Special Investigative Units: Molina Healthcare of Texas, AUD-20-011, May 22, 2020
- Audit of Medicaid and CHIP MCO SIUs: Blue Cross and Blue Shield of Texas, AUD-19-001, September 28, 2018
- Audit of Medicaid and CHIP MCO SIUs: Driscoll Health Plan, AUD-18-012, April 3, 2018
- Audit of Medicaid and CHIP MCO Special Investigative Units: Christus Health Plan SIU, IG-16-017, November 22, 2016
- Audit of Medicaid and CHIP MCO SIUs: Health Management Systems, Inc.: Third Party SIU, IG-16-15, August 29, 2016
- Audit of Medicaid and CHIP MCO SIUs: Superior HealthPlan, Inc. SIU, IG-16-014, August 26, 2016
- Audit of Medicaid and CHIP MCO SIUs: DentaQuest SIU, IG-16-013, August 24, 2016
- Audit of Medicaid and CHIP MCO SIUs: Texas Children's Health Plan SIU, IG-16-016, August 24, 2016
- Audit of Medicaid and CHIP MCO SIUs: Cigna Health-Spring SIU, IG-16-012, August 24, 2016
- Audit of Medicaid and CHIP MCO Special Investigative Units: Seton Health Plan, IG-16-011, June 9, 2016

Appendix E: Resources for Additional Information

The following resources provide additional information about the topics covered in this report.

For more information on Texas Health and Human Services Medicaid and CHIP Programs and Services:

Medicaid and CHIP Homepage, Texas Health and Human Services, https://www.hhs.texas.gov/services/health/medicaid-chip (accessed May 10, 2023)

For more information on Driscoll Children's Health Plan d/b/a Driscoll Health Plan:

Homepage, Driscoll Children's Health Plan d/b/a Driscoll Health Plan., https://www.driscollhealthplan.com/ (accessed May 10, 2023)

Appendix F: Report Team and Distribution

Report Team

OIG staff members who contributed to this audit report include:

- Anton Dutchover, CPA, Deputy Inspector General of Audit and Inspections
- Tammie Wells, CIA, CFE, Audit Director
- Sarah Corinne Warfel, CPA, CISA, Audit Director
- Marcus Horton, CFE, CIA, CRMA, CCSA, Audit Project Manager
- Errol Baugh, Senior Auditor
- Aleah Mays-Williams, Senior Auditor
- Stacie Evans, Staff Auditor
- Shantell Jarrett, Staff Auditor
- Danita Villarreal, Associate Auditor
- Crystal Lopez, Associate Auditor
- Karen Mullen, CGAP, CIGA, Quality Assurance Reviewer
- James Hicks, CISA, Quality Assurance Reviewer
- Mo Brantley, Senior Audit Operations Analyst

Report Distribution

Health and Human Services

- Cecile Erwin Young, Executive Commissioner
- Kate Hendrix, Chief of Staff
- Maurice McCreary, Jr., Chief Operating Officer
- Jordan Dixon, Chief Policy and Regulatory Officer
- Karen Ray, Chief Counsel

- Michelle Alletto, Chief Program and Services Officer
- Nicole Guerrero, Chief Audit Executive
- Emily Zalkovsky, Chief Medicaid and CHIP Services Officer, Medicaid and CHIP Services
- Shannon Kelley, Deputy Executive Commissioner for Managed Care
- Dana L. Collins, Deputy Executive Commissioner for Operations, Medicaid and CHIP Services

Driscoll Children's Health Plan

- Craig Smith, Chief Executive Officer
- Gregory Ward, Chief Financial Officer
- Beth Linnehan, Ethics and Compliance Auditor, Driscoll Health System
- J.R. Trevino, Director of Special Investigations

Appendix G: OIG Mission, Leadership, and Contact Information

The mission of OIG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of OIG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Inspector General
- Kacy J. VerColen, Chief of Audit and Inspections
- Diane Salisbury, Chief of Data Reviews
- Susan Biles, Chief of Staff, Chief of Policy and Performance
- Erik Cary, Chief Counsel
- Matt Chaplin, Chief of Operations
- Steve Johnson, Chief of Investigations and Utilization Reviews

To Obtain Copies of OIG Reports

- OIG website: ReportTexasFraud.com

To Report Fraud, Waste, and Abuse in Texas HHS Programs

- Online: https://oig.hhs.texas.gov/report-fraud-waste-or-abuse
- Phone: 1-800-436-6184

To Contact OIG

- Email: oig.generalinquiries@hhs.texas.gov
- Mail: Texas Health and Human Services
  Office of Inspector General
  P.O. Box 85200
  Austin, Texas 78708-5200
- Phone: 512-491-2000