

Medicaid Fraud Leads To \$33.6M Lawsuit Against LR Care Center

by **Mark Friedman**

Posted 7/13/2015 12:00 am

Updated 1 week ago

The alleged Medicaid fraud at Step-by-Step Senior Care Inc. of Little Rock was so widespread that the company billed for services that a fictitious employee didn't provide, according to documents on file at the Arkansas Office of Medicaid Inspector General.

The OMIG suspended Medicaid payments to Step-by-Step in September and handed its audit over to the Arkansas attorney general's office.

Last month, the attorney general's office filed a civil lawsuit in Pulaski County Circuit Court against the elder-care facility and its owners, Breon Harmon and Clarise Tatum, both of Little Rock, to recover nearly \$480,000 in restitution for overbilled Medicaid payments tied to 3,164 violations in less than 10 months in 2013-14.

The attorney general's office also is seeking damages of \$1.4 million and the maximum penalty of \$10,000 for each of the false, fictitious or fraudulent claims for a total judgment of up to \$33.6 million.

A former employee, Dawna Kincade, 46, of Little Rock, has been charged with felony Medicaid fraud.

Step-by-Step's attorney, Simmons Smith of Little Rock, told Arkansas Business last week that he thought the amount the attorney general's office was seeking was excessive.

"The bottom line is we think it's a matter that certainly should have been resolvable," he said. "For some reason the AG's office is continuing to pursue it."

The Step-by-Step case is the most recent example of alleged Medicaid fraud, waste and abuse in the joint federal-state program, which pays for health care for the disabled and low-income families.

The Arkansas Attorney General's Office Medicaid Fraud Control Unit is working on 104 investigations, with 25 of those cases stemming from an OMIG referral, according to Judd Deere, a spokesman for the attorney general's office.

The federal Medicare program also is trying to root out fraud in the federal health insurance program that's mainly for people aged 65 and older.

The U.S. Department of Justice announced just last month that a national Medicare fraud investigation resulted in charges against nearly 250 people for approximately \$712 million in false billings. None of the people, though, were Arkansas providers.

Documents from Step-by-Step's case on file at the OMIG, which were released to Arkansas Business under the Freedom of Information Act, gives some insight into the extent of the alleged false and fraudulent billing that occurred at Step-by-Step between Sept. 1, 2013, and June 14, 2014.

Smith declined to comment on the facts of the case. Deere also said he couldn't comment on a pending case.

In November, Smith filed an appeal in Pulaski County Circuit Court and challenged OMIG's ruling that suspended Step-by-Step's Medicaid payments. That case is pending.

Without the Medicaid payments, Smith said Step-by-Step is "just sort of hopping along, trying to survive until we could get through this lawsuit."

Smith said Step-by-Step didn't do anything malicious or evil in handling its books.

“It’s something that if [the AG’s office] wanted to work with us, they could have,” he said. “But they chose to go the route that they did, and we just have to defend on it.”

Kincade, who was charged in May with felony Medicaid fraud, has pleaded not guilty in Pulaski County Circuit Court. Her attorney, David Cannon of Little Rock, declined to comment.

Hotline Call

Founded in 2008 by Phyllis Green of Little Rock, Step-by-Step was established on “a foundation of old fashioned values while utilizing modern day technology and business tools to move information along smoothly and quick,” according to its website.

The company said its mission is to provide affordable home care services to clients in their own homes.

Assistance provided in Medicaid’s personal care program is supposed to supplement other services available to Medicaid beneficiaries that are authorized by a doctor. Personal care services would include assisting in daily living activities such as bathing, dressing and taking medications.

Step-by-Step serves clients in Faulkner, Jefferson, Lincoln, Pulaski and Saline counties, [according to its website](#).

Green, who was a supervisor and owner of the Medicaid provider number for the senior care program, transferred ownership of the company to her adult son, Breon Harmon, in 2010, according to her testimony in a hearing in October before the state Department of Health’s Office of Medicaid Provider Appeals.

The Office of Medicaid Inspector General launched an investigation into Step-by-Step in June 2014 after the mother of a client called the OMIG’s hotline. The mother, whose name and all patient names were redacted from the files released to Arkansas Business, reported that

she had arranged for someone at Step-by-Step to watch her child but then changed her mind.

She then, however, received an explanation of benefits statement for services billed by Step-by-Step for six days of service in April 2014. The mother said no one from Step-by-Step had come to her house and she hadn't taken her child to the Step-by-Step facility, according to an Oct. 31 order from Administrative Law Judge Vicki Pickering.

The Investigation

The OMIG reviewed the medical records of 101 Step-by-Step clients, records that originated between Sept. 1, 2013, and June 15, 2014. Investigators discovered hundreds of instances of what they allege were false, fictitious or fraudulent claims filed during that period.

The list of problems included:

- Billing for Medicaid beneficiaries who never received services;
- Altered documents;
- Fabricated progress notes after a beneficiary's date of death; and
- Forgery of a beneficiary's signature after the reported date of death.

Investigators found records indicating that a client had signed a medical record after the client's death.

“In addition, there were daily service logs suggesting delivery of services that were provided after the beneficiary had died,” the OMIG report said. “However, these services were not billed though they were documented.”

In some cases, no documents or service logs were provided to investigators to support that services were provided. And some of the documents that were shown to investigators included errors such as services being provided on Nov. 31, 2013, even though November has only 30 days, Pickering's order said.

Rogue Employee Blamed

Pickering's order indicates that Step-by-Step officials pinned most of the documentation and billing errors on its former employee, Dawna Kincade.

Clarice Tatum, who is also an administrator and supervisor for Step-by-Step, testified at the October hearing that it was Kincade who used a fake employee name, "T. Jenkins," to fraudulently bill for services to a client who didn't receive them.

Tatum also alleged that Kincade submitted documents so "Jenkins" could get paid, and Kincade then received those paychecks.

Tatum testified that she didn't discover Kincade's bookkeeping problems until April 2014. Tatum said she found Step-by-Step was "drastically" overpaying several aides because Kincade didn't require the clients' service logs to be turned in for payroll or billing.

At that point, Tatum said, she started requiring service logs or progress notes for clients before any employee would be paid.

Pickering, though, didn't buy Tatum's argument that it was all Kincade's fault. During the audit period Kincade was responsible for the payroll, but the forms or service logs went through at least four employees, including Tatum and Harmon, before a paycheck was issued, Pickering said in her order.

"Step-by-Step alleged that [Kincade] was the only employee responsible for the fraud, but the evidence suggested that many other representatives for Step-by-Step were a part of and involved in the suspected fraud discovered by OMIG," Pickering wrote.

"There was no explanation as to why no one recognized that 'T. Jenkins' was not an employee and she was issued a paycheck," Pickering wrote.

It also wasn't explained why Harmon didn't recognize that a fictitious employee was billing for services provided to someone who wasn't even a client of Step-by-Step, she wrote.

Step-by-Step's Offer

During the October hearing, Step-by-Step officials argued that instead of suspending its Medicaid payments, employees should be educated on the proper way to bill Medicaid.

Step-by-Step officials said it was willing to work with the Medicaid program to repay the overpayments and correct all the issues. They also argued that clients would be harmed if the suspension wasn't lifted.

Pickering, though, wasn't persuaded to resume Medicaid payments.

“There was no evidence to prove that Step-by-Step was the sole source of service in the community,” she wrote. “In addition, OMIG established that it was working to place all affected beneficiaries with a Medicaid provider to ensure that their access to care was not jeopardized.”

A court date hasn't been set in Pulaski County Circuit Court to hear the appeal of Pickering's ruling. Kincade's trial is set for Oct. 27 in Pulaski County Circuit Court Judge Herbert Wright Jr.'s courtroom.

[Arkansas Business](#)