How to Catch a Fraudster

Presented by:
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- **Elizabeth M. Madigan – Senior Deputy Attorney General Pennsylvania Office of Attorney General Medicaid Fraud Control Section**
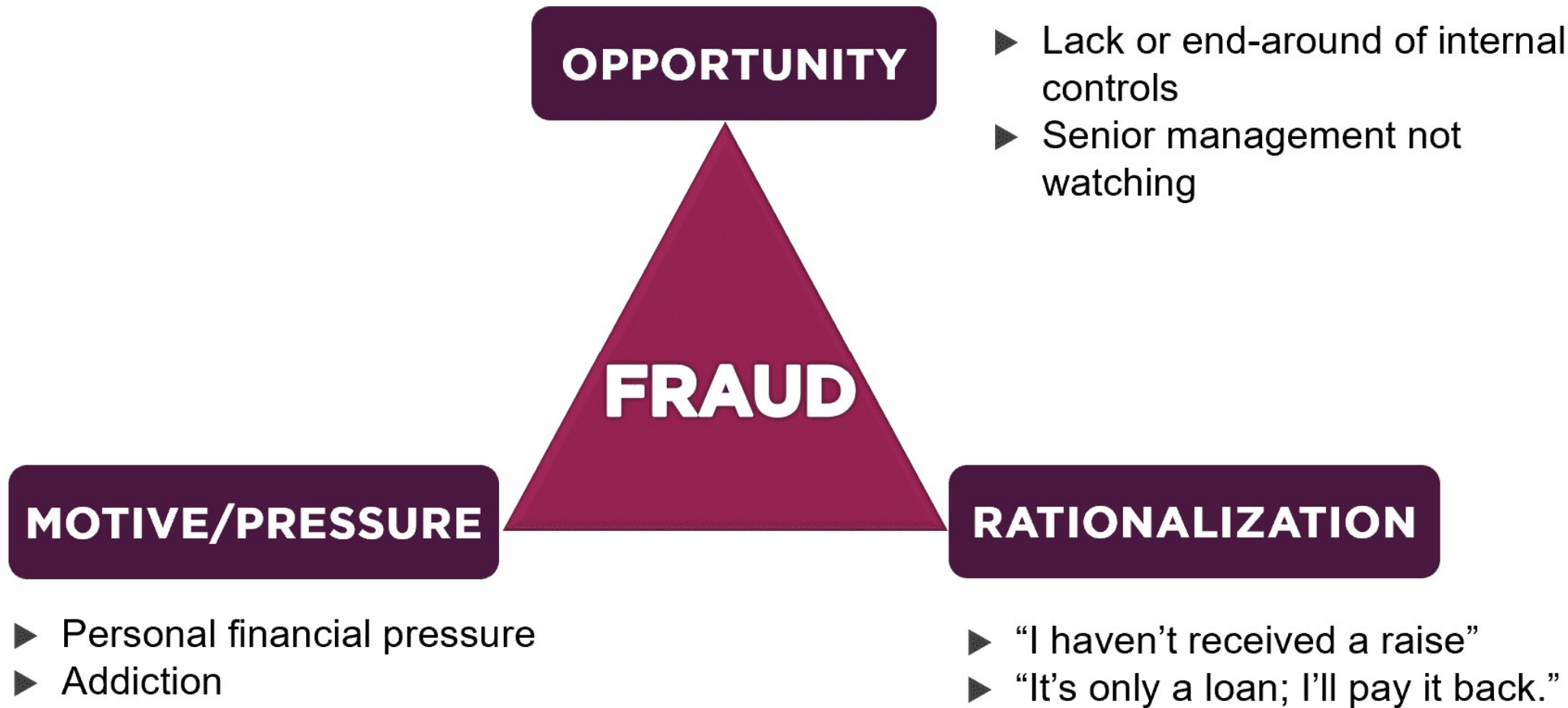
City of **Philadelphia**

The Why

Why People Commit Fraud

OPPORTUNITY

▶ Lack or end-around of internal controls
▶ Senior management not watching

FRAUD

MOTIVE/PRESSURE

▶ Personal financial pressure
▶ Addiction

RATIONALIZATION

▶ "I haven't received a raise"
▶ "It's only a loan; I'll pay it back."

Motive/Pressure

- Financial pressure & need for money

- Paying bills, credit card debt, sick family member, recent injury, etc.

- Push by managers/leadership

- Need for approval for 'good performance' (falsify results)

Opportunity

- Lack of sufficient oversight

- Supervisor does not review notes

- Agency unaware of potential ability to commit fraud unnoticed – "We had no idea they could do that"

- Coworkers and/or supervisors & leadership turn a "blind eye"

- Coworkers and/or supervisors show you *how* they "get around the system"

- You've seen others do the same and they got away with it or got a "slap on the wrist"

Rationalization

- "I deserve it"

- "Everybody does this"

- "They don't pay me enough"

- "It's not hurting anybody"

- "It's my tax money"

- "It's just this one time"

- "They will never know"

Rationalization Rebutted

- A lot of fraudsters think that they are better or smarter than everybody else. They think they *deserve* more and that they can get away with it.

- It DOES hurt people

- Staff members usually get into this field for a reason – and by committing fraud you are denying or harming services that could *help* people

The How

How People Commit Fraud

Warning Signs & Examples - Documentation

- Notes written *during* the session (either same client or different client)

- Travel times not making sense (i.e. 5 minute travel time between 2 places far away)

- Back to back sessions for hours without any break (meals, restroom, etc.)

- Different looking signatures on encounter forms and other paperwork

Warning Signs & Examples cont.

- No missed or rescheduled sessions (everybody misses or cancels every once in a while)

- Long telehealth sessions (especially with children)

- Very short sessions (could have been phone calls which in most levels of care are non-billable)

- School-based sessions on weekends and holidays

Warning Signs & Examples cont.

- Sessions with family members back-to-back (aka did they all meet together and the staff member bill separately?)

- Long phone calls (talking on the phone for several hours)

- Flooding supervisor/the system with notes– trying to distract/overwhelm the supervisor who reviews them

- Poorly written notes or notes that sound the same/similar

- Encounter forms signed by a child or parent late at night

Example of a poorly written note

Faux Provider

DAP NOTE   NAME: Jane Smith   CLIENT #: 0123456

Services: DATE: 10/1/2023
( ) med. check - 1/4 hr.
( ) individual therapy - 1/2 hr.   Frequency of visits:
(x) individual therapy - 1 hr.   (x) weekly   ( ) monthly   ( ) 2 months
( ) family therapy - 1/2 hr.   ( ) 2 weeks   ( ) 5 weeks   ( ) 3 months
( ) family therapy - 1 hr.   ( ) 3 weeks   ( ) 6 weeks   ( ) prn
( ) group therapy - 1 hr.   ( ) other _____

SESSION GOAL: Talk about progress towards treatment goals

DESCRIPTION: Met with Ben for half an hour today and he is
doing well. He said his anxiety is better. Will meet next
week to discuss his uncle.
_____
_____
_____
_____
_____
_____
_____

ASSESSMENT/DIAGNOSIS: Jane is making progress. Depression is
under control and cocaine use has not been an issue lately.
_____
_____
_____
_____

PLAN: Meet next week
_____
_____
_____

Signature: K.M.   Date: 11/7/2023

Issues with Note

- Checked hour long session but noted the session was half an hour

- Note for Jane Smith but note written for "Ben"

- No noted start and end times

- Date of service 10/1/2023 but not signed until 11/7/2023 (CBH requires all notes be signed and entered into the system within 7 days)

- Signature just says "K.M." – need name spelled out and credentials

- Insufficient content for billed 1 hour service. More information is needed including what occurred during the session, interventions, the client's reactions to the interventions, and a sufficient plan for the next session

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PLAN: Meet next week

Signature: K.M.   Date: 11/7/2023

The What
(you can do)

Prevention measures, action steps when you suspect fraud, and whistleblower protections

5

What **CAN** you do?

| Have a Compliance Plan | Review Documentation, Conduct Interviews & Observe Behavior | Training & Supervision | Monitor, Self-Audit & Report |

Compliance Plan

More information regarding the Compliance Plans to be shared after this session at 11:00am

Required as a part of the CBH Provider Agreement & Provider Manual and Outlined by provisions in the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 (2010)

Section 6401 of the Patient Protection and Affordable Care Act states that all providers "of medical or other items or services" shall establish a compliance program as a condition of enrollment in Medicare, Medicaid, of the Children's Health Insurance Program (CHIP).

Review Documentation

Before signing off on any documentation, review to ensure accuracy

Check for suspicious clock times (too short/too long)

Check to see what time of day the documentation was signed

Check to see how late the note was entered (late note entry)

If you know the client's history, check to see if the note content aligns with what you know
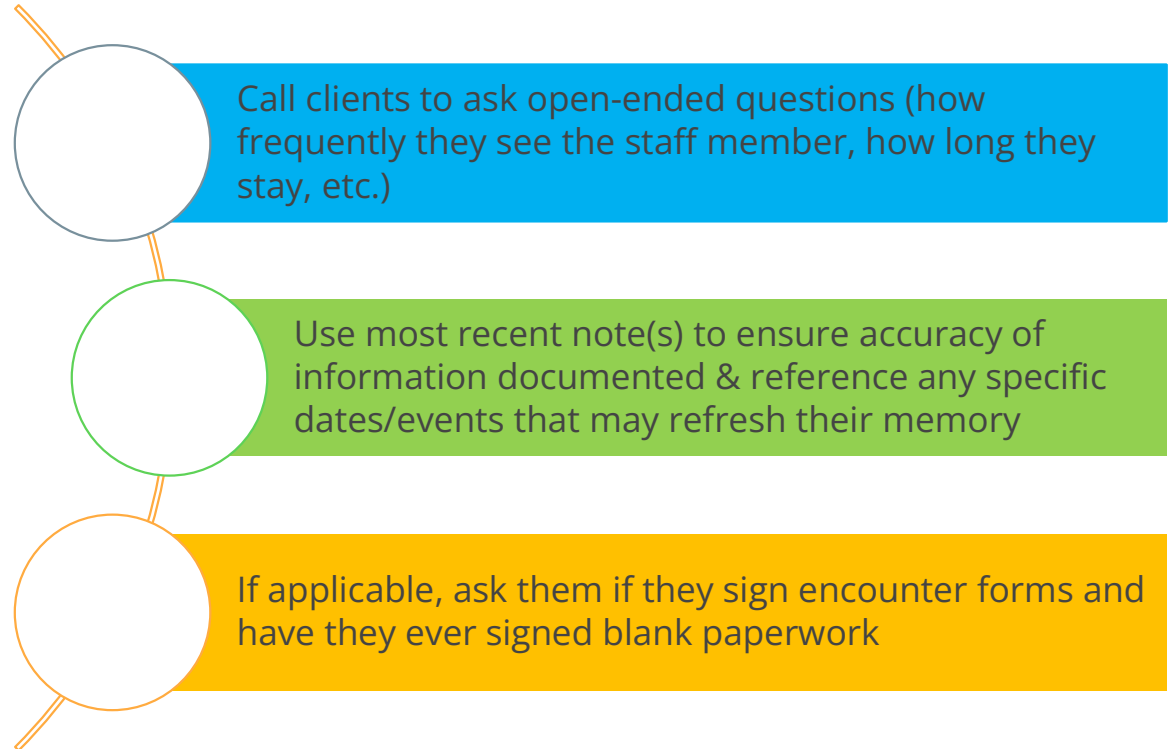
Check multiple notes to look for re-use of content

Does the note 'sound' like the staff member wrote it? i.e. copied and pasted from the internet

Conduct Interviews and Engage with Clients

Call clients to ask open-ended questions (how frequently they see the staff member, how long they stay, etc.)

Use most recent note(s) to ensure accuracy of information documented & reference any specific dates/events that may refresh their memory

If applicable, ask them if they sign encounter forms and have they ever signed blank paperwork

Observe Behavior

Does the staff member take long/excessive breaks or breaks that don't match their schedule?

Does the staff member seem to be spending more money than usual? (clothes, food, cars, etc.)

Does the staff member have a 'preference' for certain cases vs. others?

Do they seem dissatisfied with the organization (gossip, coming in late, acting aloof)?

Have their previous practices (i.e. notes getting in on time, stellar note-writing, compliments from clients) changed?

Do they avoid supervision?

Note: * Not all of these are indicators of fraud – just behaviors to be mindful of

Being aware of how your staff members behave can help give you warning signs of potential fraud

Training & Supervision

- Ensure all trainings & certificates are up-to-date

- Encourage external trainings (CBH, BHTEN, OMHSAS, DDAP, etc.)

- Ensure all mandatory trainings are completed

- Maintain a record of certificates for all trainings

- Subscribe to newsletters to stay up-to-date on trainings

Some training resources

CBH	https://cbhphilly.org/cbh-providers/provider-education-resources/
Behavioral Health Training and Education Network (BHTEN)	https://www.bhten.com/
The Office of Mental Health and Substance Abuse Services (OMHSAS)	https://www.dhs.pa.gov/providers/Pages/Trainings.aspx
Department of Drug and Alcohol Programs (DDAP)	https://www.ddap.pa.gov/Training/Pages/DDAP%20Training.aspx

Supervision

- Supervision allows you to get an understanding of your staff member's work, their relationship and work with the client, and allows for open communication to ensure they are satisfied with your organization

- For specific rules and regulations regarding supervision (i.e. frequency, documentation, group supervision, etc.) please check the PA Code

- If you have any questions regarding your level of care, feel free to contact CBH Compliance at CBH.ComplianceContact@phila.gov

Monitor, Self-Audit & Report

1. As noted, make sure to monitor notes, client responses, and staff behavior

2. CBH Provider Bulletin 18-17 "Self-Auditing Process for CBH Providers" provides guidance on how to complete self-audits. Providers have an ethical duty to conduct routine audits of their records and report any compliance issues

3. For any questions about self-audits, please contact our Compliance Contact email address: CBH.ComplianceContact@phila.gov

Self-Audit Resources

Medical Assistance Provider Self-Review Protocol	https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Provider-Self-Audit-Protocol.aspx
CBH Provider Bulletin 18-17 "Self Auditing Process for CBH Providers"	https://dbhids.org/wp-content/uploads/2018/11/Compliance-Bulletin_FINAL.2.pdf
CBH Provider Self-Auditing Form	https://dbhids.org/wp-content/uploads/2018/11/Provider-Self-Auditing-Form.pdf

Report

If you suspect any fraud, waste, or abuse, report to the CBH Compliance Hotline either via email or phone

CBH.ComplianceHotline@phila.gov

Call Us

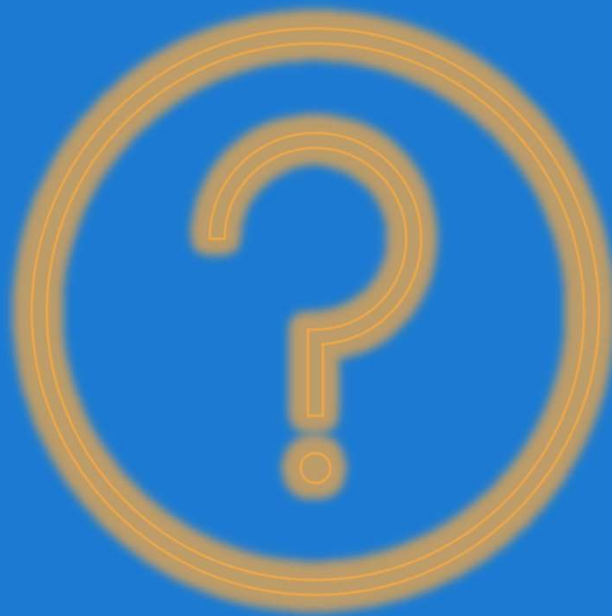# Pennsylvania Whistleblower Protection
(43 P.S. §1421-1428)

- In Pennsylvania a whistleblower is an individual who makes a good faith report of suspected wrongdoing or waste

- They can also federally file a qui tam lawsuit

- Whistleblowers are protected and cannot:

- Be discharged, threatened, discriminated against, retaliated against

Comments or Questions for CBH?

If there are any additional questions, you may contact the CBH Compliance Department directly at the following Email Address:
CBH.ComplianceContact@Phila.gov

And now let's hear from Elizabeth M. Madigan – Senior Deputy Attorney General Pennsylvania Office of Attorney General Medicaid Fraud Control Section

Thank You for Attending!

Sources

- Fraud Triangle: https://anderscpa.com/the-fraud-triangle-three-conditions-that-increase-the-risk-of-fraud/?tag=fvl

- DAP Note Template: https://www.sampletemplates.com/business-templates/sample-notes/dap-note.html#google_vignette