

Ohio Department of Medicaid
NOTIFICATION OF OUTSIDE EMPLOYMENT

Name <i>Kimberly Lynn Williams</i>	Employee ID <i>10026644</i>	Date <i>6/16/16</i>
Classification <i>MHS Administrator I</i>	Office/Bureau/Unit <i>LTC attn: [unclear] Payment Unit</i>	
ODM Supervisor/Manager <i>Deonne Clark</i>		
Outside Employer <i>Cornerstone Care Counseling Center</i>	Telephone Number <i>937-935-3028</i>	
Employer's Address <i>135 E. Townsend St.</i>	City/State/Zip <i>North Lewisburg Ohio 43060</i>	
Title of Position <i>Owner/Provider</i>	Working Hours on Same Days as Agency Work (e.g., 6pm-10pm) <i>6pm-10pm M-F Sat 7:30-5:00pm.</i>	
Average Number of Hours Worked on Same Days as Agency Work <i>varies with scheduled appts. 2-3x wk / group counseling</i>		
Duties Performed <i>I am the owner and provider of mental health, substance abuse individual, group and family counseling. I have been a provider for 8 years and established my business in 2014. I have been an approved medicare/medicaid provider since March 10, 2015 and currently applied for my medicare provider #. This is an update to my Supplemental Negotiation Statement I filled out at [unclear] 6/18/15 + updated 7/14/15. At that time I was informed it would not be an issue. I do supply services to consumers that are medicare recipients. Once I receive my provider # I will also be billing medicare for provision of services. I currently have not submitted any claims and have been operating only as a billing [unclear] until further notification through C&S and Third Party Billing as well as medicare.</i>		
Does this employer hold a service contract or supply services to ODM or another state agency? If yes, explain. <i>I have read and understand ODM-IPP 5003 Outside Employment. If there is a significant change in any of the above information, I may be required to submit a new Notification of Outside Employment form. I have included a copy of the original Supplemental Negotiation Statement signed at this time.</i>		
Employee Signature <i>Kimberly Lynn Williams</i>	Date <i>6/16/16</i>	
Supervisor/Manager Signature <i>[Signature]</i>	Date <i>6/22/2016</i>	
Deputy Director Signature	Date	

Comments

**Department of Medicaid**

John R. Kasich, Governor

John B. McCarthy, Director

INTEROFFICE MEMORANDUM

To: Kimberly Williams
From: Heather Sullivan, Deputy Legal Counsel
Date: June 29, 2016
Re: Outside Employment and Conflict of Interest

Issue: Whether a conflict of interest exists in being a Medicaid provider and being employed full time with the Ohio Department of Medicaid as a Medicaid Health Systems Administrator 1 over the LTC Payment unit.

Answer: The Ohio Ethics law does not prohibit public employees from engaging in outside employment, or activities, so long as no conflict of interest occurs between the outside employer and the public duties of the public employee. Additionally, the public employee may not use her public position to the benefit of her private employer. Based on the facts you provided, a conflict of interest would exist in your situation.

Background: Your responsibilities at ODM include supervising the LTC Payment Unit in the Claims Reconciliation Section. You have indicated that any work performed as a Medicaid provider would occur outside the hours of your ODM employment.

Analysis: There are two issues to address – outside employment and possible conflicts of interest. In addressing outside employment, I reviewed ORC 102.03 (D) and (E) which state that:

(D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

Additionally, the Ohio Ethics Commission issued Advisory Opinion No. 96-004 regarding Outside Private Employment. This opinion states that:

“the Ethics Law does not prohibit a public employee from having a private job or engaging in private business activities, provided the employee does not misuse his public employment and there is no other conflict of interest.”

Exhibit 2

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R.C. 102.03 (D) and (E) prohibit a public official or employee from soliciting, accepting, or using the authority or influence of his official position to secure anything of value if the thing of value could manifest a substantial and improper influence upon him with respect to his duties. Advisory Op. No. 90-003. The Ethics Commission has held that in order to be prohibited for purposes of R.C. Section 102.03, the thing of value must be of a substantial and improper character. Advisory Ops. No. 88-004, 89-006 and 89-014. Generally, the compensation that a public official or employee receives from private outside employment or business activity is not incidental or minimal in amount, and thus, would be of a substantial nature.

I have reviewed the possibility of a conflict of interest with your position at ODM and your status as a Medicaid provider. In the performance of your public duties with ODM, you are prohibited from engaging in outside employment with a party seeking to do business, or currently doing business, with your own agency unless it is determined by ODM that you are able to withdraw, as a public official or employee, from consideration of matters that affect the interests of the party with which you desire to engage in private outside employment or business activity.

Given your job duties, ODM has determined that you are unable to sufficiently withdraw from consideration of matters that would impact your private outside employment.

Conclusion: It is the opinion of the Ohio Department of Medicaid's Office of Legal Counsel that based on your current position at ODOM and the facts presented and that are identified in this memorandum, you may not continue to act as Medicaid provider while employed as a Medicaid Health Systems Administrator at ODM because it would present a conflict of interest.

If you would like further guidance, you may consult the Ohio Ethics Commission for an analysis of this situation. If the Ethics Commission renders an advisory opinion concluding that there is no violation of the statutes under its jurisdiction, the person to whom the opinion is addressed, as well as those similarly situated, may rely on that opinion, and be immune from criminal prosecutions, civil suits, and removal actions for violating any such statute. R.C. 102.08

**Department of Medicaid**

John R. Kasich, Governor

Barbara R. Sears, Director

INTEROFFICE MEMORANDUM

To: Kimberly Williams
From: Heather Sullivan, Deputy Legal Counsel
Date: April 28, 2017
Re: Outside Employment and Conflict of Interest

It has come to the attention of the Office of Legal Counsel that there was an allegation that you were improperly benefiting from your outside employment by billing Medicaid for services provided by your company through a subcontract relationship. When Labor Relations asked you about these allegations, you denied them, indicating that your new business is not currently a Medicaid provider and that you have no plans to become one when the business opens in May. You indicated that you had been a provider in the past but that business is now just associated with private insurance companies. You denied having plans to hire someone to process claims through Medicaid. You also indicated that you know to reach out to the Office of Legal Counsel or the Ohio Ethics Commission before you would do anything associated with Medicaid.

Based on your interview with Labor Relations, there does not appear to be a conflict of interest. However, I would like to provide you a copy of the original analysis provided to you on June 28, 2016. While this analysis did not address the use of subcontractors or partners to bill Medicaid, I would like to make it clear that this type of relationship would be improper and would result in a conflict of interest that would subject you to discipline, up to and including termination. Please feel free to contact me, or the Ohio Ethics Commission, with any questions if there are changes to your outside employment situation.