

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

**A. GENERAL INFORMATION**

1. Date

2. Department

Health Care Services

3. Organizational Placement (Division/Branch/Office Name)

Audits and Investigations Division

4. CEA Position Title

Chief, Special Investigations Unit

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

The Department of Health Care Services (Department/DHCS) is requesting approval to allocate the above position as a new CEA level A. The proposed CEA, Chief, Special Investigations Unit (SIU), Audits and Investigations Division (A&I), will be responsible for leading a multi-disciplinary team who conduct investigations, financial audits, and field reviews of departmental programs and expenditures aimed at the detection and prevention of fraud and abuse in the Medi-Cal program. This specialized team will identify potential fraud and abuse within these programs, through sophisticated predictive analytics and field work, to perform audits and collect evidence of potential criminal activity. Additionally, the Chief, SIU, will advise Executive staff in matters of extreme sensitivity to the Department, programs, the media, and provider and client communities.

6. Reports to: (Class Title/Level)

CEA Level C, Deputy Director, Audits and Investigations Division

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st
- 2nd
- 3rd
- 4th
- 5th (mega departments only - 17,001+ allocated positions)

## B. SUMMARY OF REQUEST

### 9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The Chief, SIU, will hold responsibility for the formulation, evaluation, and implementation of program policies related to SIU procedures and the detection/prevention of fraud, waste, and abuse in the future. The Chief, SIU, will provide leadership and organization to the multi-disciplinary team, whose goal is to use data analytics and link analysis to combat fraud, waste, and abuse in the increasingly complex fraud threats occurring in the Medi-Cal program. The duties/responsibilities of the Chief, SIU, will include, but are not limited to:

- Apprising management regarding the risks identified and creating plans for targeted reviews as determined by robust analytics, link analysis, and team collaboration.
- Developing and evaluating program policies related to SIU and the detection of fraud, and prevention of fraud, waste and abuse in the future.
- Collaborating with external programs to mitigate fraud in the Medi-Cal program through the SIU's efforts. Striving to understand the trends in Medi-Cal abuse and schemes poised to take advantage of the program.
- Communicating with other State and Federal fraud units and programs to ensure that the SIU is current, in the techniques and best practices for program integrity.
- Attending appropriate symposiums and other task forces to take advantage of successful programs not yet considered by SIU.
- Providing resources to the Director, the Chief Deputy Director, the Deputy Director, the California Health and Human Services Agency, and the Governor's Office to answer legislative inquiries.
- Developing regulations based on weaknesses discovered by SIU to better protect State resources in the future.
- Advise the Director, the Chief Deputy Director, the Deputy Director of major Department programs, State and Federal partners, and other stakeholders of risks to the Medi-Cal program, as well as current and future exercises to mitigate perceived fraudulent activity of suspect providers.
- Meeting with programs to collaborate and advise on identifying areas of concern, suspect activities and ideas to mitigate and prevent fraud discovered by SIU.
- Overseeing the writing of referral reports to external persecutory organizations.
- Providing law enforcement organizations with appropriate and accurate information and evidence to support legal proceedings.
- Providing actionable intelligence to DHCS programmatic staff regarding weaknesses in payment systems and ongoing updates on fraud and abuse in their respective programs, offering recommendations, and assisting in the development of policies to prevent fraud.
- Meeting with the Centers for Medicare and Medicaid Services (CMS) on a regular basis to provide updates on SIU activities.
- Representing the Department concerning requests from external customers including the Legislature, Federal agencies, State agencies, constituency groups, counties, and legal advocates, among others.
- Participating in post field reviews to update and refine the operational effectiveness of the team.

**B. SUMMARY OF REQUEST (continued)**

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: DHCS' mission is to provide Californians with access to affordable, high-quality health care, including medical, dental, mental health, substance use treatment services, and long term care. A&I is critical to achieving the Department's goals by ensuring the fiscal integrity of the health programs administered by DHCS and to ensure quality of care provided to the beneficiaries of these programs. The overall goal of A&I is to improve the efficiency, economy, and the effectiveness of DHCS and the programs it administers. In support of this mission, A&I will create a permanent, multi-disciplinary SIU to review provider information, paid claims, and other data for the Medi-Cal program. The Special Investigations Unit will aggressively pursue those entities participating in fraudulent, abusive, and wasteful activities within the Medi-Cal program.

## **B. SUMMARY OF REQUEST (continued)**

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

As the single state agency for California's Medicaid program, DHCS has a responsibility to oversee and review the Medi-Cal program. The National Health Care Anti-Fraud Association, a private-public partnership comprised of private health insurers and public sector law enforcement and regulatory agencies, estimates that the financial losses due to health care fraud are in the tens of billions of dollars each year.

In July 2013, the Centers for Investigative Reporting (CIR) published a three part series of reports in regard to the Drug Medi-Cal program (DMC) and alleged fraud, asserting that lax oversight left California drug rehabilitation funding vulnerable to fraud. The report alleged that, over the prior two fiscal years, the program paid \$94 million to 56 drug and alcohol rehabilitation clinics that showed signs of deceptive or questionable billing. In September 2013, the Assembly Health Committee and Assembly Accountability and Administrative Review Committee held a joint oversight hearing to examine current oversight of the DMC by DHCS.

In response, A&I quickly mobilized the SIU, made up of redirected staff to commence targeted reviews of all DMC certified provider sites who were actively billing. DHCS deployed six teams, each consisting of one programmatic staff, one Health Program Auditor, and one Investigator to review various DMC providers in California. These teams became known as the Special Investigations Unit. Over 275 providers totaling approximately 550 individual sites were visited for review. As a result of these investigations, approximately 75 providers were suspended due to a credible allegation of fraud (CAF), and approximately 90 CAF referrals to the State Department of Justice (DOJ) were completed. The providers who were temporarily suspended had approved 2012-13 billings of \$59 million dollars.

For the fiscal year ending June 30, 2013, the number of CAF referrals to the DOJ stood at less than 30 referrals. With the temporary creation of the Special Investigations Unit, and work completed by this team, the Department has referred over 100 CAFs to the DOJ in FY 2014-15.

In April 2014, DHCS procured a new data analytics system to supplement the Special Investigations Unit's efforts by increasing efficiency and reducing workload turnaround on developing fraud leads. This system fundamentally changes the way A&I operates. With a data analytics system in place, A&I receives continuous leads of providers likely to be engaging in fraudulent practices. The Special Investigations Unit reviews and investigates the leads, which ultimately leads to increased recoveries and prosecutions.

The Special Investigations Unit's approach to combating fraud and abuse has been remarkably successful. Based on the success of this team, A&I is permanently establishing the Special Investigations Unit and expanding it to include a wide range of programs within DHCS, and is no longer limiting the Special Investigations Unit to DMC. The permanent Special Investigations Unit will consist of multi-disciplinary A&I staff, to include researchers, auditors, medical professionals, program staff, and investigators. Since the inception of the original Special Investigations Unit model, A&I has established an additional twelve dedicated activities within the Special Investigations Unit to address pervasive, and likely organized, fraud in the Medi-Cal program. Each activity focuses on a different area of the Medi-Cal program.

Furthermore, The Patient Protection and Affordable Care Act, commonly known as the Affordable Care Act (ACA), enacted in 2010, contained a myriad of new program integrity requirements to prevent, detect, and take strong enforcement action against fraud in the Medicaid program. These requirements have significantly increased A&I's performance expectations and is forcing A&I to expand the manner in which business has historically been conducted. One of the enhanced program integrity policy requirements promulgated by the CMS, as a result of the ACA, is the deployment of enhanced data analytics, also known as predictive modeling. The use of data analytics and finding suspected violators is the core of the work being performed by the Special Investigations Unit. Study of the data reveals areas of improvement for Special Investigations Unit activities, leading to revision and/or development of policy to improve performance and effectiveness.

### C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

California has the largest Medicaid enrollment in the nation, with over 12 million beneficiaries. In addition to its size, the Medi-Cal program has been consistently viewed as a leader in Medicaid program integrity (PI). This high profile showcases our actions in a continuous spotlight; all eyes (CMS, other states, the public, etc.) are regularly looking to DHCS as a bellwether in assessing the effectiveness of their own strategy and efforts (whether successes or failures) to preserve and maximize taxpayers' dollars. Historically, California has been considered forward-thinking in fraud-fighting measures. Fraud scams constantly evolve, changing to escape detection and working around enforcement efforts by shifting business models. To keep up, A&I must be on the cutting edge, learning to rapidly detect the scams and the criminals that perpetrate them. Tens of millions of dollars and the lives of beneficiaries are at risk each and every year. It is A&I's goal to continue to enhance and improve our detection processes, our financial recovery methods, the quality of our referrals for prosecution, and the other tools available to us, such as administrative actions. This requires acutely focused efforts, as the costliest modern healthcare fraud in California is often the product of highly coordinated and computer-savvy criminal organizations. These criminal organizations have no concern for the lives of the beneficiaries they place in danger, and we must move swiftly, deliberately, and with decisive intelligence if we are to thwart their efforts. Other states have changed the way they conduct business moving forward, modeling themselves after policies and procedures DHCS' SIU has implemented over the past year. Examples of the policy areas over which the CEA would be required to make significant policy decisions include:

1) Developing and implementing policies to improve the detection of new and existing highly complex fraud schemes through the use of predictive analytics and data mining that utilizes sophisticated computer modeling, employing historical, and transactional data to identify not only fraud risks, but also fraud opportunities, so that we may employ preventive measures. This involves policy regarding the use of sensitive information containing Protected Information, Protected Health Information, and law enforcement investigation-related confidential information. There are new and developing relationships between various State, local and Federal law enforcement and oversight entities, including the DOJ, the state Department of Business Oversight, the Franchise Tax Board, the Board of Pharmacy, the California Department of Public Health, among others, as well as the United States (US) DOJ. This requires policy development with regard to information sharing in the relatively new field of data analytics, and policy on interagency multi-jurisdictional task forces. This will also involve policy development and policy decisions regarding the methodologies utilized by these diverse agencies and DHCS. Engagement between this CEA and other high level government officials, prosecutorial and other law enforcement entities, in the development, formation, and reformation of policy will occur often, and is made all the more complex by the confidential and sensitive nature of the subject material and methodologies.

2) Developing and implementing audit program policy for on-site field reviews of providers performed by the SIU. The SIU is focused on fraud, forensic accounting, and investigative activities. SIU field visits differ substantively from ordinary provider field audits in that they are attended by a multi-disciplinary team made up of law enforcement investigators; auditors; subject matter experts pertinent to the type of provider, such as, a pharmacist on the team for a pharmacy audit; and, field staff to scan, photograph and document items and events that may later be used as evidence. This requires policy and procedures be developed, maintained, and kept current regarding strict chain of custody logs and transfers; interaction between provider staff/personnel on site and SIU staff; handling and disposition of adulterated pharmaceuticals/controlled substances; and, handling and disposition of paper documentary evidence, photographic evidence, hard drives or other electronic media and computers, interview questions and documentation of responses, etc. All of this must be done in coordination with the policies of the US DOJ and State DOJ, as well as other law enforcement and oversight departments/agencies that may take part or be called to the scene as a result of information and/or items discovered during the field audit. SIU field visit policies must be reevaluated regularly in light of changes in federal policy, changes in case law, statutes, regulations, or changes in the policies of participating agencies. SIU field visits, collection and cataloging of evidence, interviews, and provider interactions are extraordinarily sensitive, and may occur near or in the presence of beneficiaries and other third parties. Policy regarding the SIU field visits must be judicious in its development and application, and must remain diligently aware of, and in synchronization with, the changing legal environment.

3) Developing/implementing new policies based on the fraud and waste found by SIU in order to prevent that type of fraud from reoccurring in the future. Policy regarding the prevention of fraud must constantly evolve to fit the changing tactics of providers who seek to commit fraud. This requires high level coordination with local governmental entities, other state departments, other states, federal authorities, as well as outside contractors.

### **C. ROLE IN POLICY INFLUENCE (continued)**

#### **13. What is the CEA position's scope and nature of decision-making authority?**

The Special Investigations Unit Chief will report directly to the Deputy Director, A&I, for supervisory related issues, and serves as a key member of the executive management team, recommending and implementing audit and investigative departmental policies as they relate to the work of the Special Investigations Unit. The Special Investigations Unit Chief will be responsible for coordinating major audit activities across a multi-disciplinary team that has state-wide and nation-wide impact. The activities under the Special Investigations Unit's scope are far reaching, from hospitals to individual providers and beneficiaries. The Special Investigations Unit activities and policy development will cross all DHCS program areas and involve large dollar amounts in program payments.

The Special Investigations Unit Chief will be responsible for coordinating major audit activities which are highly sensitive and confidential in nature. The Special Investigations Unit Chief is heavily focused on program integrity, policy development and a result of Special Investigations Unit's efforts, and will devote time and attention to collaborating and coordinating with staff from the Financial Audits Branch (FAB), the Medical Review Branch (MRB), the Investigations Branch (IB), within A&I, in addition to other DHCS programs and divisions, as well as external corporate entities, State, local, and Federal departments and agencies.

It is important to note that although the Special Investigations Unit Chief reports to the A&I Deputy Director for supervisory related reasons, this position will often receive assignments from the DHCS Chief Deputy Director and will be responsible for making decisions independently with regard to Special Investigations Unit policies and on the deployment of Special Investigations Unit resources.

Due to the size of the Medi-Cal program, and the complexity and constant evolution of modern fraud schemes, the Special Investigations Unit Chief will be required to formulate and adopt policies, principles, rules, and guidelines to assist the organization of its mission to ensure the fiscal integrity of health programs administered by DHCS based on the findings of the Special Investigations Unit's audits and investigations. The Special Investigations Unit Chief will often have the need to revise existing policies, which will have a broad impact and providers and beneficiaries.

The Special Investigations Unit Chief will often meet and discuss issues and findings with technical consultants, legal staff, the Administration, and Legislative leaders.

#### **14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?**

Due to the size of the Medi-Cal program, and the complexity and constant evolution of modern fraud schemes, the Special Investigations Unit Chief will be required to formulate and adopt policies, principles, rules and guidelines to assist the organization in its mission to ensure the fiscal integrity of health programs administered by DHCS based on the findings and work of the Special Investigations Unit audits and investigations. The Special Investigations Unit Chief will often have the need to revise existing policies as vulnerabilities within programs are discovered through the investigative work performed by the Special Investigations Unit. The Special Investigations Unit Chief will focus on evaluating internal control weaknesses found through the work of the Special Investigations Unit and through working with other divisions, and creating/revising policy work to strengthen internal controls. For example, the California State Auditor found in their audit of the DMC program that Medi-Cal was paying claims for deceased beneficiaries. The Special Investigations Unit generated a sample of 20 beneficiaries and found that vital statistics and Social Security updates were not occurring as expected. In this example, it will be the Special Investigations Unit Chief's responsibility to work with the Medi-Cal Eligibility Division in order to create new policies and create systematic approaches to address and eliminate this area of vulnerability. Additionally, the Special Investigations Unit Chief will be responsible for interpreting and implementing existing policy as it applies to the work being performed by the Special Investigations Unit. These are all new activities for A&I. A&I has not traditionally reviewed providers with data analytic tools that focus on a link analysis. Due to the complexity of overseeing a division with over 700 staff, current A&I management does not have sufficient time/resources to perform these duties outside their existing functions.