

The Commonwealth of Massachusetts

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
STATE HOUSE, BOSTON 02113, March 30, 1973.

FEBRUARY REPORT OF

THE BUREAU OF WELFARE AUDITING

To: His Excellency Francis W. Sargent, Governor
Clerk of the Senate
Clerk of the House of Representatives

Gentlemen:

Pursuant to G.L., c. 7, s. 30T (6), the Bureau of Welfare Auditing, by its Director, submits this report of its activities for the period from February 1, 1973 through February 28, 1973.

During this month two hundred forty-two (242) complaints were received by this Bureau, alleging a wrongful receipt or claim for payment under assistance programs administered by the Department of Public Welfare.

The chart below indicates the category and source of the referral of these complaints.

February 1, 1973 – February 28, 1973

* CASE CATEORY	1	2	3	4	5	6	7	8	TOTALS
DPW	2	—	26	106	5	6	1	9	155
AUD	—	—	—	3	—	—	—	—	3
CIT	2	—	25	44	2	2	3	4	82
INV	—	—	—	2	—	—	—	—	2
TOTAL	4	—	51	155	7	8	4	13	242

* *CASE CATEGORIES*

1. Vendor Investigations
2. State Employee Investigations
3. Undeclared Contributor of Income in the Home
4. Unreported Income
5. Receipt of Multiple Payments/Benefits
6. Check Investigations
7. Residency Requirements Are Not Met
8. Ineligible/Non-Existent Recipient

** *SOURCE OF COMPLAINTS*

DPW: Complaints received from Department of Public Welfare

CIT: Complaints received from the General Public and Otherwise

AUD: Complaints received from the Department of the State Auditor

INV: Complaints received from the Bureau of Welfare Auditing Personnel

Fifteen (15) cases indicating possible fraudulent receipt or claim for payment from the Department of Public Welfare were reported in February by this Bureau to the Attorney General for such action as he may deem appropriate. Those cases are described below:

<i>Number of Cases</i>	<i>Case Category</i>	<i>Region</i>
1	Vendor Investigation	Boston
4	Unreported Income	Boston
1	Unreported Income	Brockton
2	Undeclared Contributor of Income in the Home	Greater Boston
3	Unreported Income	Greater Boston
1	Unreported Income	Lawrence
1	Ineligible/Non-Existent Recipient	Lawrence
1	Unreported Income	New Bedford
1	Unreported Income	Springfield

Fifty-four (54) criminal complaints were filed this month by the Bureau in the Commonwealth's district courts relative to welfare recipient violations.

Fifty-three (53) criminal matters investigated by this Bureau were prosecuted in court in February. Twenty-one defendants were found "Guilty" with most of them given suspended jail sentences, probation and a court order to make full repayment of the welfare monies fraudulently obtained. One defendant was found "Not Guilty" and the cases of seventeen additional defendants were "continued without a finding" with court orders of full restitution. Nine cases were "dismissed" or "filed" when all but two defendants paid full restitution to the court. The five remaining cases were heard by a Clerk of Court who ordered full restitution in each case. The total amount of welfare money paid or ordered to be paid in these cases was Fifty-Four Thousand Six Hundred Thirty-Nine and 55/100 (\$54,639.55) Dollars.

Vendor investigations conducted by this Bureau relative to physicians, pharmacies and nursing homes participating in the Department of Public Welfare assistance programs have revealed what appears to be a practice by certain pharmacies in this state to increase the price of their billings to the Welfare Department through a vehicle known as "prescription splitting".

This problem area is best illustrated as follows: Physician, "A" issues a prescription for an elderly welfare recipient who is a patient in Nursing Home, "B", calling for "100 Darvon Compound Tablets, 65 milligrams". The recommended dosage is one tablet, three times daily. This prescription would consequently supply the patient's monthly needs. Pharmacy, "X" filling this prescription should bill the Welfare Department as follows:

100 Darvon Compound 65 mg. — \$ 7.32

+ Pharmacy Dispensing Fee — 1.85

9.17 = \$9.20 Permitted Charge
by DPW Fee
Schedule

Instead, Pharmacy "X" splits the prescription and dispenses 25 "Darvon Compound Tablets, 65 milligrams" each week to the patient in Nursing "B". The resultant billings by "X" to the

Department reflect as illustrated below a cost to the Welfare Department of \$14.80 instead of the permitted cost of \$9.20. This represents an additional cost of \$5.60 or a 62% increase in the billings of "X" to the Department.

25 Darvon Compound 65 mg.	— \$ 1.83
+ Pharmacy Dispensing Fee	— <u>1.85</u>
	3.68 = \$3.70
	x 4
	<u>\$14.80</u>
	<u>—9.20</u>
Difference +	\$ 5.60
” +	62%

Our investigations have indicated that, contrary to Department of Public Welfare regulations which specifically require medical practitioners to indicate the specific quantity of medication prescribed for welfare recipients and which also specifically prohibit the practice of "prescription splitting" by pharmacies, either certain medical practitioners or certain pharmacies are deliberately practicing or encouraging "prescription splitting" in violation of the Department's regulations.

In view of the above, this Bureau has attempted to move against these violations in the Commonwealth's criminal courts.

We have found that Massachusetts General Laws, Chapter 94C known as the "Controlled Substances Act" sets forth stringent requirements relative to the prescribing of dispensing of "drugs" in Massachusetts, and it provides appropriate criminal penalties for violations of the Act. However, we have determined that the wording of Sections 20(a), 22(a) and 24(a) of the "Act", which control the manner in which a "controlled substance" or drug is dispensed by medical practitioners, contains an apparent loophole. For example, Section 22(a) states that:

A practitioner who dispenses a controlled substance by issuing a written prescription shall state on the prescription the name, address and registration number of the practitioner, the date of delivery of the prescription, the name, dosage and strength per dosage unit of the controlled substance, the name and address

of the patient unless it is a veterinary prescription, the directions for use and any cautionary statements required, and a statement indicating the number of times to be refilled.

We feel that these cited sections of the “Act” should also require that the *quantity* of a controlled substance which is dispensed in accordance with the “Act” be designated in addition to the “name, dosage and strength per dosage unit” of the controlled substance so dispensed.

Accordingly, we have recommended that the “Controlled Substances Act” be amended to remove the above mentioned apparent loophole. It is felt that such an amendment will greatly assist this Bureau and the Department of Public Welfare in eliminating the practice of “prescription splitting”. The effect which it may have on the 30 million dollar cost of the state welfare pharmacy program could be very significant.

Respectfully submitted,

RAYMOND F. JOWDY,
Director,
Bureau of Welfare Auditing.



