



Department of Health Care Services
MEMORANDUM

DATE: January 10, 2014

TO: Toby Douglas
Director
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FROM: Karen Baylor
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SUBJECT: Implementation Plan for Drug Medi-Cal Program Limited Scope Review

At your direction, I have prepared this Implementation Plan for the Department of Health Care Services (DHCS) to act on each of the recommendations of the November 2013 Drug Medi-Cal (DMC) Limited Scope Review. Key leadership across the department, including the Substance Use Disorder Divisions I oversee, carefully reviewed the audit and its recommendations.

For each of the 32 audit recommendations, we identify action steps to take across the department to fix the problems the audit identified, and improve the integrity of the DMC program.

I look forward to working with my colleagues throughout DHCS, and with our county partners, to implement these action steps and other improvements, that will bolster the DMC program and better serve Medi-Cal beneficiaries in need of substance use disorder services.

Department of Health Care Services Drug Medi-Cal Program Limited Scope Review

IMPLEMENTATION PLAN

State Level Administration

Recommendation #1: To ensure the successful implement of remedies for identified gaps and program deficiencies, Substance Use Disorder Services management should take advantage of the recent transition to the DHCS and fully leverage the Department's support and vast resources.

Action Steps: Since the full transition of the Substance Use Disorder Services (SUD) programs and functions to the Department of Health Care Services (DHCS) on July 1, 2013, a vast amount of DHCS resources and support has already been dedicated to identifying and resolving Drug Medi-Cal (DMC) program deficiencies. Some of those actions and resources are:

- 1) DHCS' current statewide targeted reviews of DMC providers is utilizing the DHCS Audits and Investigations Division (A&I) investigators, financial auditors and medical personnel. These reviews are instrumental in identifying the scope of the DMC program fraud, waste and abuse, temporarily suspending providers that are not meeting program goals, and referring providers to the California Department of Justice for potential criminal prosecution.
- 2) A&I has dedicated significant staff resources to create an elite strike team to conduct DMC data mining activities focused on identifying patterns and anomalies within the data that suggest potential fraud for further investigation.
- 3) Resources have been dedicated to completing this limited scope review of the DMC program to quickly identify significant gaps in the program as a focus of planning efforts.
- 4) A cross-departmental team has been tasked with conducting an analysis of DMC medically necessary assessments conducted by provider's medical directors. Departmental expertise from A&I's Investigations Branch, A&I's Medical Review Branch, Office of Legal Services and the two Substance Use Disorders Services (SUD) Divisions is being leveraged for this task.
- 5) DHCS is recertifying all DMC program providers in the state. This continued certification process is being managed by the Provider Enrollment Division (PED). PED, which oversees enrollment of many Medi-Cal provider types, will also manage all initial and ongoing DMC certification moving forward.

In addition, DHCS plans to:

6) Reconfigure the Post-Service Post-Payment (PSPP) utilization reviews. This will include adding the Medical Review Branch to provide clinical expertise. It will also involve DHCS developing a provider risk assessment model, which is estimated to be established in the fall of 2014. In addition, DHCS' internal audit consultation capacity with A&I will be utilized to help shape the PSPP Unit internal control structure.

Overall, SUD program management has been able to benefit from the active DHCS leadership, guidance and deep knowledge of the broader Medi-Cal rules and policies that apply and are relevant to the DMC program.

Recommendation #2 – To improve the effectiveness of its Provider Registry Information Management enterprise (PRIME) system, SUD management should enhance the PRIME system to accept all application, compliance, and program information (deficiencies, corrective action plans, etc) across all programs to ensure the entire universe of data being tracked and analyzed. Data such as the non-eligible provider list(s) from the Provider Enrollment Division should also be incorporated in this effort to the extent feasible.

Action Steps: Prior to the transition of the former Department of Alcohol and Drug Programs (ADP) to the Department of Health Care Services, ADP designed the tenets of the Provider Registry Information Management enterprise (PRIME) system. DHCS has continued with the PRIME project. Once PRIME is fully operational, the data system will contain all substance use disorder treatment programs including DMC certifications, Narcotic Treatment Programs (NTP), residential facilities, alcohol and drug certifications and Driving Under the Influence (DUI) programs. Currently, all DMC providers are in the PRIME system. The NTPs and residential programs are in the testing phase and should be complete in the spring of 2014.

Another phase in PRIME will be needed to include DUI programs and complaints and corrective actions. Additionally, the phase will incorporate Affordable Care Act requirements and incorporate or interface non-eligible provider lists.

Licensing and Certification

Recommendation #3 – To ensure DMC providers continue to meet certification standards, the Department should implement a full DMC provider re-certification process at least once every five years in accordance with the new requirements of the ACA.

Action Steps: DHCS began recertifying all DMC providers in the state through its Provider Enrollment Division (PED) in July 2013. The re-certification process requires the DMC provider to submit an application package and supporting documentation to confirm that the provider continues to meet certification requirements. The department contacts each DMC provider during their phase (one of four, based on geography and

provider type) to initiate this process. Compliance with this continued certification process is necessary to continue as a participating DMC provider. The Department will conduct the re-certification process at least once every five years, in accordance with the new requirements of the Affordable Care Act.

Recommendation #4 – To ensure that only qualified and legally compliant providers are authorized to participate in the DMC program, the Department should strengthen its DMC certification standards, with a specific focus on the responsibilities and performance measures of the facility Medical Director and other provider personnel.

Action Steps: DHCS will clarify the responsibilities of DMC providers, DMC Medical Directors, and other DMC provider personnel, as a part of a regulatory revision package to improve DMC program integrity. Please see the Action Steps to Recommendation #32 on regulations for additional information.

DHCS will begin engaging stakeholders in discussions that focus on proposed changes to the DMC program, including these regulatory changes, in January 2014.

Recommendation #5 – To reduce the risk of fraud, waste and abuse, the Department should limit the number of DMC providers at one physical location or address to a single provider.

Action Steps: The Department will need to further evaluate the impact of having one entity with DMC certification(s) at one physical location. Currently, the DMC program has more than one provider at one physical location (e.g. in one building with more than one suite number on different floors) and has not found that to be a program integrity concern.

Recommendation #6 – To streamline the re-certification process and take advantage of the Department's strict provider enrollment standards, the Department should consider formally aligning the DMC certification process with policies and procedures utilized by the Provider Enrollment Division for enrollment of Medi-Cal Fee-For-Service providers.

Action Steps: The Department is moving the responsibilities for initial and ongoing DMC certification to the Provider Enrollment Division (PED). PED had already assumed the responsibility for the re-certification effort which began in July 2013. Through the re-certification process, PED is learning the DMC policies and procedures and beginning to align DMC certification with the Medi-Cal Fee-For-Service provider enrollment process.

Recommendation #7 – To comply with CMS policy regarding the screening of excluded providers; the Department should conduct monthly checks against the Medicare Exclusion Database (MED) or the OIG List of Excluded

Individuals/Entities database to identify exclusions and reinstatements of existing DMC providers. All identified excluded DMC providers should be suspended from the DMC program.

Action Steps: PED will conduct monthly checks against the MED database to identify exclusions and reinstatements of existing DMC providers.

Recommendation #8 – To enhance program integrity and decrease the risk of fraud, waste and abuse, the Department should de-certify all providers that have not billed the program for over 12 months. Re-certification should then be required if the provider wishes to resume participation in the program.

Action Steps: DCHS will de-certify providers that have not billed the program for over 12 months. It has already begun this process, with notification to all DMC providers of this forthcoming de-certification process.

Monitoring and Compliance

Recommendation #9 – To enhance program integrity, the Department should establish ongoing and periodic program compliance monitoring activities for the DMC Program. The monitoring activities should be coordinated with existing PSPP utilization reviews and other DHCS conducted county monitoring activities to ensure DMC certification standards are complied with. Additionally, consider enhanced / expanded roles for counties in the monitoring efforts. State/county collaboration needs to be strengthened to avoid duplication and maximize enforcement capacity.

Action Steps: Counties, which contract with DMC providers, are the front line of defense to ensure services are being appropriately delivered within their counties. DHCS will amend the next state-county contract (for Fiscal Year 2014 to 2015), to increase county monitoring of DMC providers. (This is also identified as an Action Step for Recommendation #18.) In addition, DHCS is developing a provider risk assessment model for its Post-Service Post-Payment (PSPP) review, which is estimated to be established in the fall of 2014.

Recommendation #10 – To enhance the effectiveness and value of AOD and NTP on-site provider visits and because DMC providers are also often AOD and NTP certified, SUD management should expand AOD and NTP site visit procedures to include *basic* observations about the surroundings and activities of a provider location to identify potential fraud, waste or abuse.

Action Steps: Many Alcohol and Other Drug (AOD) certified programs and Narcotic Treatment Program (NTP) that receive certification for those two categories are also DMC providers. DHCS is evaluating the current AOD and NTP site visit procedures and site visit tools in order to include identification of potential DMC fraud, waste or abuse.

The revised AOD and NTP monitoring tools will be complete in the spring of 2014. Any “red flags” identified by AOD and NTP review staff will be referred to DMC monitoring and/or PSPP for follow-up. Upon receipt, the referred information will be assessed to determine the next appropriate course of action.

Recommendation #11 – To increase the effectiveness and efficiency of program integrity efforts, DMC program monitoring should be fully coordinated with the biennial AOD, annual NTP and county monitoring activities. There should also be full data sharing between all parties to ensure identified compliance issues are fully communicated to avoid duplication of efforts and executing the various monitoring and auditing activities in a vacuum.

Action Steps: All SUD monitoring efforts (AOD, NTP and DMC) will be coordinated through development of efficient communication methods/formats and twice yearly monitoring coordination meetings with all Field Units represented. SUD Management will work together to coordinate all AOD and NTP site visits associated with DMC. Through coordinating site visits, the Department will be able to have more expansive visits to ensure that there is better monitoring of the DMC programs.

Recommendation #12 – To ensure activities are coordinated and staff are knowledgeable about the various program integrity efforts and objectives across the entire SUD program, SUD management should provide internal cross-training on the topics of AOD monitoring, NTP monitoring, DMC monitoring and PSPP utilization reviews.

Action Steps: DHCS’ SUD management team has taken several steps to ensure staff are informed of program integrity efforts and objectives across all SUD programs as well as internal unit integrity expectations. Extensive cross-training has already begun with SUD staff from multiple units participating in the DMC targeted reviews. Management will further implement this cross-training over the next 12 months to ensure that staff are knowledgeable and aware of the scope of work related to AOD monitoring, NTP monitoring, state and county DMC monitoring and PSPP utilization reviews. The goal will be to increase the effectiveness of staff in identifying issues for referral to other units.

Recommendation #13 – To increase program integrity and decrease the risk of fraud, waste and abuse in the DMC program, the Department should consider revisions to Title 22 regulations specific to the physician/medical director’s role and responsibilities as it relates to beneficiary contact and involvement in patient care. Consultation from appropriate clinical personnel should be obtained to determine what those standards should be.

Action Steps: DHCS will clarify the responsibilities of DMC Medical Directors, as a part of a regulatory revision package to improve DMC program integrity. Please see the Action Steps to Recommendation #32 on regulations for additional information.

DHCS will begin engaging stakeholders in discussions that focus on proposed changes to the DMC program, including these regulatory changes, in January 2014.

Recommendation #14 – To ensure counties are not overpaid due to inflated base rates, the Department should work with the DOF to ensure adjustments are made to back out identified fraudulent billings or false claims from existing levels of service in developing county allocation schedules.

Action Steps: DHCS will analyze the current county allocation formula in light of these inappropriate billings and work with the Department of Finance to assess how it should be adjusted.

Post-Service Post-Payment Utilization Reviews

Recommendation #15 – To ensure appropriate investigation and fraud referral by the PSPP Unit to the appropriate law enforcement authorities, the complaint intake function should be segregated from personnel responsible for deciding whether an investigation and fraud referral to law enforcement is warranted.

Action Steps: The Complaints Unit within the SUD Compliance Division will forward DMC related complaints to the Post-Service-Post-Payment (PSPP) Unit within SUD Prevention, Treatment and Recovery Division (PTRSD). PSPP will review and refer to A & I for preliminary investigation. Division management over PSPP will work with A&I to define fraud, waste or abuse indicators that shall be the basis for PSPP's referrals to A&I.

In order to engender confidence in the process put in place, DHCS internal audits will also be consulted to ensure processes are sufficient to avoid the potential of staff or management improprieties. This should be completed by mid-2014.

In addition, to ensure appropriate checks and balances are in place, PSPP will establish a mechanism for regularly reporting to A&I and SUD management a report of all referrals received, the referral outcome, and basis for the outcome. This will provide the necessary transparency and give all parties an opportunity to reassess whether complaints that are not ultimately referred to A&I should be reassessed.

Recommendation #16 – To effectively implement DMC provider monitoring as previously recommended, SUD management should clearly delineate DMC PSPP utilization review requirements from DMC monitoring requirements. Once completed, SUD management should identify the SUD unit best suited to assume responsibility for ongoing DMC program monitoring. If there are inadequate personnel resources to address monitoring responsibilities, SUD management should pursue additional resources and request the needed positions.

Action Steps: SUD Management indicates that the County Monitoring Unit will have the primary responsibility to monitor counties' adherence to the State-County contract

for administering Drug Medi-Cal, and to ensure that the state and counties are monitoring Drug Medi-Cal providers appropriately for program integrity. The Unit will recommend any changes needed to ensure these responsibilities are met, either through an amendment to the State-County contract or through other program changes.

Recommendation #17 – To increase the effectiveness of the PSPP Unit, SUD management should enhance/increase clinical expertise and capacity within the Unit. SUD management should also consider leveraging A&I's clinical resources and expertise to assist with aspects of its PSPP utilization reviews.

Action Steps: The SUD management team will enhance/increase the clinical expertise and capacity within the PSPP unit through partnership with the Medical Review Branch (MRB) to leverage MRB's clinical expertise on an ongoing basis as part of the PSPP utilization review process. The MRB resources will be targeted toward reviews of providers that are determined as the highest risk. This process is in development and implemented in the fall of 2014.

Recommendation #18 – In light of the 2011 Realignment, the Department should determine what enhanced role the counties might play regarding future utilization reviews. Once determined, the Department should amend the State-county contract to reflect the modified roles and responsibilities.

Action Steps: Currently, counties providing DMC services are required through the state-county contract to have a mechanism in place for ensuring their providers are in compliance with applicable regulations and guidelines. These requirements include the following:

- Establishing a process for determining the need for DMC services within the county and developing a criteria for granting requests for contracts with certified DMC providers;
- Establishing a monitoring process to ensure that DMC treatment providers are licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations;
- Ensuring the quality of services provided to DMC beneficiaries
- Establishing a process for ensuring substance use treatment services are medically necessary for DMC eligible clients; and
- Developing policies, procedures and practices for ensuring that SUD treatment is available to out of county residents, services are not denied based on a client's inability to pay, access to services for beneficiaries and compliance with DMC reporting requirements.

The next State-County contract (for Fiscal Year 2014 to 2015) will be expanded and amended to incorporate additional county responsibilities for ensuring appropriate monitoring of their DMC network of providers. These responsibilities will include monitoring providers so that:

- DMC beneficiaries are receiving necessary services in the appropriate amount, scope and quality to address their substance use disorder;

- DMC providers correct all deficiencies identified by the state within proscribed timeframes;
- All DMC provider complaints counties receive are submitted to the state;
- All county DMC audits and monitoring reports are shared with the state; and
- DMC claims submitted to the state have been subject to a county review and verification process for accuracy and legitimacy.

Counties will be required to accomplish this through a system of monitoring, utilization review and fiscal and programmatic controls.

Recommendation #19 – To increase the effectiveness of PSPP utilization reviews, SUD management should build and implement a comprehensive core training program for PSPP Unit staff.

Action Steps: Over the next 12 months the core training program for the Post-Service Post-Payment Unit (PSPP) will be expanded for all PSPP staff to include appropriate cross-training efforts with other DHCS divisions and trainings on medical necessity and youth treatment specific to DMC services.

Recommendation #20 – To enhance the value of PSPP reviews, SUD management should modify its approach to utilization reviews by discontinuing its practice of reviewing all providers based upon a cycle (once every three years). Instead, reviews should be prioritized based upon high risk and high dollar providers as identified via analysis of paid claims data and other analysis of provider activity data. Consultation with the A&I Medical Review Branch is advised to implement the necessary structure and practices for effective data mining and case development.

Action Steps: DHCS will develop a DMC provider risk assessment model for the PSPP Unit as a method of selecting providers for utilization reviews and engaging Medical Review Branch (MRB) clinical staff in conducting those reviews of providers deemed highest risk. At the core of developing this model will be the ability to establish regular management data reports (e.g., total billed units of service, dollars, year to year percentage change, number of clients served, physician to claims/beneficiary ratio, etc.) in addition to data mining. Other issues such as past deficiencies and complaints will be considered as well. It is anticipated that this model will be ready to implement in the fall of 2014.

Recommendation #21 – To deter fraud, waste and abuse by DMC providers, SUD management should explore the feasibility of increasing the use of statistical extrapolation in its PSPP utilization reviews to increase the potential for recovery of identified overpayments and the positive effect this might have on provider compliance with DMC standards, laws and regulations.

Action Steps: DHCS will instead use its existing authority to seek reimbursement for disallowed claims from the counties, which in turn seek them from providers. This has

the same effect as this recommendation intends, which is for there to be a consequence to providers that inappropriately bill.

Financial Audits

Recommendation #22 – To increase program integrity, the Department should explore the feasibility of placing more expectations on the counties, including fines if necessary, to notify the Department when the county becomes aware that a contractor is closing its program, or has become defunct.

Action Steps: DHCS will amend the next State-County contract (for Fiscal Year 2014 to 2015) so that counties notify the state when a contractor closes its program. DHCS will then monitor compliance with this requirement through the annual county monitoring review. Instead of fining counties through the county monitoring process it is determined that a county is out of compliance with this requirement, the county will have an opportunity to rectify the deficiency within a prescribed timeframe. If unable to do so, the county will then be issued a deficiency for which they are required to submit a corrective action plan (CAP).

Recommendation #23 – To ensure program integrity, SUD management and program staff should monitor and follow-up on all significant audit findings, especially those that are unusual in nature, material in dollar amounts, or may lead to financial and/or legal exposure to the Department.

Action Steps: DHCS will revise its financial audit report routing and other processes to apprise SUD management and DMC program staff of issues for follow up.

Recommendation #24 – To ensure program integrity, the Department should resume financial audits of NTPs that submit cost reports to ensure that operating costs reported to the State are accurate and in sufficient detail to support payments made for services rendered to beneficiaries.

Action Steps: Given the current statutory constraints, which do not require Narcotic Treatment Programs (NTPs) to submit costs reports, DHCS is not positioned to conduct financial audits of all cost reports.

Recommendation #25 – To ensure proper segregation of duties and accountability from NTP providers, SUD management should discontinue its role in preparing the required Performance Report on behalf of NTPs to be consistent with the statutory reporting requirement. The Performance Report should be independently prepared and remitted by the NTPs to the State as required by law. Provider bulletins should also be updated accordingly to ensure expectations of the counties are clear.

Action Steps: DHCS will work with Narcotic Treatment Programs (NTPs) to transition to a process by which NTPs prepare the Performance Reports they are required to

submit to DHCS. First, DHCS will initiate discussion with NTPs on what data elements should be captured in the Performance Report. Then, DHCS will generate the Performance Report format and issue it to NTPs with a timeline for completion.

Recommendation #26 – To ensure the integrity of past PSPP URs, SUD management should perform a cursory assessment of past reviews for reasonableness, accuracy and completeness. Any identified anomalies or red flags should be investigated and addressed as necessary.

Action Steps: DHCS' SUD management team has taken steps to perform a cursory assessment of past Post-Service Post-Payment (PSPP) utilization review reports issued to county administrators and DMC providers for reasonableness, accuracy and completeness. As part of this assessment process, the most recent PSPP program reports reviewed to determine appropriate documentation of regulatory deficiencies requiring recoupment, corrective action required, and any technical assistance provided or recommended. A high percentage of reviews that concluded there were no deficiencies were conducted specifically by one or two staff, which raises concerns about the accuracy of those findings.

As a result, over the next 12 months the SUD management team will incorporate reviews of those providers that did not receive deficiencies during their last PSPP utilization review as a selection criterion in the risk assessment model for high risk providers. In addition, DHCS is referring these providers to counties for increased monitoring.

Recommendation #27 – To ensure the integrity and effectiveness of its organization, SUD management should work diligently to improve its internal control structure.

Action Steps: DHCS' SUD management team has, and will continue to implement controls to ensure the integrity and effectiveness of the organization as well as improve the internal control structure. Specific to the Post Service Post Payment (PSPP) utilization review process, the SUD management team completed the Financial Integrity and State Manager's Accountability (FISMA) self-assessment questionnaire which identified several mechanisms that have been implemented to mitigate issues associated with fraud, waste and abuse by strengthening systems of administrative controls.

PSPP has also been working closely with the Audits and Investigations Division (A&I) to ensure program integrity and provide internal checks and balances for DMC functions and specifically within the PSPP Unit.

Complaint and Fraud Referral Process

Recommendation #28 – To ensure all complaints received within the SUD program are being addressed by the appropriate unit and in a timely fashion, the

SUD Complaint Unit and PSPP Unit should coordinate their efforts and compare complaint logs details on a regular basis.

Action Steps: These are the same Action Steps identified in response to Recommendations #15.

Recommendation #29 – To ensure the effectiveness of all future DMC fraud investigations, A&I management should collaborate with SUD management to provide detailed and ongoing DMC program training to A&I investigators and other staff that may be responsible for future investigations, audits and reviews of DMC activity and providers.

Action Steps: DHCS' SUD management has worked closely with A & I's Medical Review Branch (MRB), Investigations Branch, and Financial Audits Branch to provide training and guidance on DMC program requirements since the summer of 2013. SUD management and A&I will continue to work closely to assure A&I's ongoing success when performing investigations, audits and reviews of DMC activity and providers. Examples of collaborative efforts that have already taken place include:

- October 2013 statewide training to A&I staff on DMC requirements for Narcotic Treatment Programs and key red flags/fraud indicators to be aware of at NTPs;
- October 2013 focused training to MRB staff responsible for taking over client record review during targeted reviews in Southern California;
- November 2013 statewide training to A&I staff on general DMC program requirements and key red flags/fraud indicators when performing targeted reviews; and
- December 2013 a DMC overview to MRB managers and supervisors.

These efforts will be ongoing as needed and requested so that A&I staff are well prepared to respond to DMC program integrity issues.

Fiscal Management & Accountability

Recommendation #30 – To ensure that the all DMC recoveries and offsets are adequately tracked, SUD Financial Management and Accountability Branch should work with DHCS Accounting Office to develop a process to enhance communications and develop a tracking system for DMC recoveries and offsets.

Action Steps: DHCS will develop a process to enhance communications and develop a tracking system for DMC recoveries and offsets. In order to do this, the SUD Fiscal Management and Accountability Branch will initiate initial discussion with Accounting and Audits, identify areas that need to be tracked, develop high-level work plan and bring in Project Management staff to manage project.

Recommendation #31 – To ensure that provider records, including client/beneficiary files, are adequately preserved, SUD management should work with the counties and direct providers to develop a process to retrieve and secure relevant records after a provider is sanctioned.

Action Steps: DHCS' SUD management will instead work with the counties and direct providers related to taking possession of the files once the program is closed and the contract is terminated, as opposed to when the provider is sanctioned. The current State-County contract provides that counties are required to take possession of client/beneficiary files upon program closure. When a provider is sanctioned, the county is still in contract with that provider until the provider voluntarily closes or until resolution of the sanction. The county does not take possession of the client/beneficiary files until termination of their contract with the provider.

Statutes and Regulations

Recommendation #32 – To increase program integrity, the Department should explore options to strengthen existing regulations associated with medical necessity, age appropriate services and Day Care Rehabilitative requirements with consultation from appropriate clinical staff.

Action Steps: DHCS' SUD management is developing a regulatory revision package to increase DMC program integrity. The package will include regulatory revisions to California Code of Regulations Title 22 that strengthen the DMC program with:

- Greater specificity in how medical necessity for SUD services is established;
- Limits for when a physical exam may be waived;
- Requirements that assure age appropriate services;
- Restrictions on the prescription of intensive outpatient treatment services to dependence diagnoses;
- A process for establishing placement criteria for residential services;
- Requirements that assure a confidential treatment setting; and
- A definition of the Medical Director/physician's roles and responsibilities.

DHCS will begin engaging stakeholders in discussions that focus on proposed changes to the DMC program including these regulatory changes, in January 2014.