FTC Complaint Requests Investigation into Deloitte's Texas Medicaid Eligibility System

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Hundreds of thousands of Texas Medicaid enrollees have been harmed by wrongful terminations and other errors in the state's automated eligibility system developed by contractor Deloitte Consulting LLP (Deloitte), a [new complaint](#) to the Federal Trade Commission (FTC) alleges. The complaint filed by the [National Health Law Program](#) (NHeLP), [the Electronic Privacy Information Center](#) (EPIC), and [Upturn](#) asks the FTC to investigate concerns with the Texas Integrated Eligibility Redesign System (TIERS), pause the use of TIERS, make public the details about TIERS programming, and require the creation of a comprehensive risk mitigation strategy to protect Texans from losing health coverage.

In Texas, [news stories](#) have recently highlighted problems related to TIERS, including:

- patients finding out at medical appointments that they have lost Medicaid coverage;
- pregnant individuals losing Medicaid coverage weeks before their due dates; and
- children with disabilities losing critical home-based services.

Advocates have [cited confusion](#) over people losing coverage or moved to different types of Medicaid coverage. Workers using TIERS have [raised serious concerns](#) about more than 20 active system issues, affecting coverage for thousands of individuals.

The complaint highlights both TIERS issues made public by workers and previous occurrences of similar issues in other states with Deloitte Medicaid eligibility systems, including erroneous coverage losses for newborns, pregnant individuals, and people with disabilities as well as the loss of Children's Health Insurance Program (CHIP) coverage. Deloitte has or previously had contracts with [at least 20 states regarding Medicaid eligibility systems](#). The complaint also alleges that Deloitte's practices in Texas are inconsistent with established public policies regarding the development and maintenance of automated decision-making systems. It further alleges that Deloitte has engaged in unfair and deceptive business practices in violation of Section 5 of the [Federal Trade Commission Act](#) because:

- TIERS is faulty, causing foreseeable loss of Medicaid coverage that Deloitte did not prevent;

- TIERS does not reliably conduct ex parte redeterminations;
- TIERS fails to make accurate eligibility determinations;
- The TIERS-related online portal provides inaccurate information to individuals;
- TIERS does not reliably recognize when requested documentation has been submitted;
- People reasonably rely on TIERS's inaccurate eligibility information and determinations;
- People in Texas cannot avoid TIERS when seeking to renew their Medicaid coverage;
- Hundreds of thousands of people have been injured by losing health care coverage and their inability to access medical care; and
- Deloitte's development and maintenance does not follow established best practices, principles, or standards for automated decision-making systems articulated in the [Organization for Economic Cooperation and Development AI Principles](#), the [White House's Blueprint for an AI Bill of Rights](#), the [Universal Guidelines for AI](#), the [Executive Order 14110](#) on the Safe, Secure, and Trustworthy Development and Use of AI, and the NIST [AI Risk Management Framework](#).

As the agency tasked with enforcing the Federal Trade Commission Act, the complaint asks the FTC to investigate Deloitte's practices regarding the development, marketing, deployment, and maintenance of TIERS and require Deloitte to:

- Pause the use of TIERS until it implements an effective testing, evaluation, and monitoring program;
- Develop a comprehensive risk mitigation strategy to prevent ongoing Medicaid coverage loss once any errors have been identified;
- Identify individuals previously harmed by errors in TIERS and take corrective action;
- Make public the design specifications, logic, and data sources used to make eligibility determinations within TIERS;
- Make public the TIERS processes, templates and data sources used to produce notices and other communications;
- Provide a written notice explaining the precise basis used to reach any Medicaid eligibility determinations or recommendations to any enrollees subject to an adverse action because of the TIERS system; and
- Provide other such information, documentation, or reporting necessary to ensure compliance with monitoring and notice requirements.

The complaint also asks the FTC to generally provide any other relief it finds necessary to remedy the harms to Texas Medicaid enrollees.