

MEDICAID FRAUD AND ABUSE DIVISION ANNUAL REPORT



2000-2001

OFFICE OF THE KANSAS
ATTORNEY GENERAL
CARLA J. STOVALL

Purpose

The purpose of the state Medicaid Fraud Control Unit (MFCU) is to deter and combat fraud against the State Medicaid Program through a single, identifiable entity of state government that can investigate and prosecute Medicaid providers across the state. The United States Department of Health and Human Services' Office of Inspector General provides funding and works in partnership with each state's Medicaid fraud control unit.

Federal Law defines the responsibilities of MFCU's

Every MFCU is to:

1. Conduct a statewide program for investigating and prosecuting violations pertaining to fraud in the administration of the Medicaid program or the activities of Medicaid providers;
2. Review complaints alleging abuse or neglect of patients in board and care facilities and misappropriations of patients' private funds by programs receiving Medicaid payments; and
3. Maintain staff to include attorneys experienced in investigation or prosecution of civil and/or criminal fraud, auditors experienced in commercial and/or financial records, investigators experienced in commercial and/or financial investigations, and other professional staff knowledgeable about the provision of medical assistance and the operation of health care providers.

Authority for Prosecution

The Kansas Attorney General's Medicaid Fraud and Abuse Division receives its specific authority from the Kansas Medicaid Fraud Control Act ("the Act") - K.S.A. 21-3844, *et seq.* The Act provides in part:

“K.S.A. 21-3852. (a) There is hereby created within the office of the attorney general a Medicaid fraud and abuse division.

“(b) The Medicaid fraud and abuse division shall be the same entity to which all cases of suspected Medicaid fraud shall be referred by the department of social and rehabilitation services, or its fiscal agent, for the purpose of investigation, criminal prosecution or referral to the district or county attorney for criminal prosecution.

“(e) In carrying out these responsibilities, the attorney general shall have all the powers necessary to comply with the federal laws and regulations relative to the operation of the Medicaid fraud and abuse division, the power to investigate, criminally prosecute violations of this act, the power to cross-designate assistant United States attorneys as assistant attorneys general, the power to issue, serve or cause to be issued or served subpoenas or other process in aid of investigations and prosecutions, the power to administer oaths and take sworn statements under penalty of perjury, the power to serve and execute in any county, search warrants which relate to investigations authorized by this act, and the powers of a district or county attorney.”

Background of the Division

The Kansas Medicaid Fraud and Abuse Division was established in 1995. Application for certification as a state Medicaid Fraud Control Unit was submitted by Attorney General Carla Stovall and Governor Bill Graves to the United States Department of Health and Human Service's in August 1995. The Office of Inspector General certified the Division in October 1995 and has granted continuing certification annually thereafter. Certification establishes that the Division meets the federal requirements set forth at 42 CFR 1007.15.

Staffing

The Division staff consists of a Deputy Attorney General as Director, one Assistant Attorney General (The Division is in the process of reviewing applications for another Assistant Attorney General.), an Auditor, a Research Analyst, a Chief Investigator and three Fraud Investigators. The

staff are professionals with extensive and complimentary experience in the investigation of fraud and physical abuse cases.

Staff Qualifications

The **Deputy Attorney General** is a prosecutor experienced in investigating and prosecuting white collar and violent crimes and most recently served from 1997 to 2000 as an assistant attorney general prosecuting cases in the Medicaid Fraud and Abuse Division. The Deputy is also a Special Assistant United States Attorney.

The **Assistant Attorney General** is an experienced criminal prosecutor with a background in all aspects of prosecution at the state level.

The **Chief Investigator** has extensive experience investigating white collar crime. Before joining the Division he served for 25 years in the United States Postal Inspection Service and the Office of Criminal Investigations of the Food and Drug Administration. He also served on special details assigned to the United States Congress.

The **Auditor** is an experienced white collar crime investigator. Before joining the Division he served for 25 years as an agent with the United States Internal Revenue Service.

The **Investigators** bring direct experience in nursing in the private sector, regulation and oversight of medical providers at the state level, and extensive criminal investigation experience at the local and state level involving both crimes against persons and property/financial crimes.

The **Research Analyst** has significant and varied experience in data analysis of both private insurance and medicare billing.

Interagency Partnerships

Kansas Medicaid Program

The Kansas Medicaid program's budget in state fiscal year 2001 is approximately \$1.3 billion per year. Medicaid services are delivered to approximately 266,101 persons throughout the state.

Provider Fraud

The Kansas Attorney General's Medicaid Fraud and Abuse Division works with the Medicaid Single State Agency, the Department of Social and Rehabilitation (SRS), pursuant to a Memorandum of Understanding (MOU). The MOU sets forth the responsibilities of the Medicaid agency and the Division in the referral, review and prosecution of cases.

In addition to the state Medicaid agency as a referral source, the Division receives reports of fraud from federal, state, and local law enforcement agencies, social service agencies, regulatory boards and the general public.

The MFCU has effective working relationships with the Medicaid fiscal intermediary, Blue Cross and Blue Shield of Kansas and the Program Integrity Section of SRS. The MFCU maintains constant communication with the single state agency and the fiscal intermediary in the following ways:

1. Monthly meetings between Division staff, fiscal intermediary staff, and Medicaid agency staff;
2. Use of a referral form; and
3. Individual case consultations.

Abuse/Neglect

The Division reviews complaints of abuse, neglect and misappropriation of patients' private funds by obtaining information from four state level agencies: the Department of Social and Rehabilitation Services (SRS), the

Kansas Department of Health and Environment (KDHE), and the Kansas Department on Aging (KDOA) and Adult Protective Services. The Division also assists local law enforcement agencies with both investigation and prosecution.

KDHE is the state agency with regulatory and licensing authority of nursing homes and adult care facilities. The Division reviews all category 1 and 2 severity level incident reports KDHE receives. Pursuant to an agreement with KDHE, the Division has computerized access to this information. With authorization from the United States Department of Health and Human Services Centers for Medicare and Medicaid Services, the Division has computerized access to the Minimum Data Sets (MDS).

Collaborative Efforts

The Division's investigators routinely work with federal investigation agencies on cases involving Medicaid and other federally funded health care programs. The Deputy Attorney General and the Chief Investigator are members of the Health Care Fraud Working Group, which is jointly sponsored by the FBI and the United States Attorneys' Offices for the District of Kansas and the Western District of Missouri. In addition, the Director is a Special Assistant United States Attorney. In this capacity he works with the United States Attorney in the investigation and prosecution of fraud cases in federal district court.

The Division also works closely with the following regulatory and licensing entities to receive and refer cases:

Kansas Board of Healing Arts

Kansas Board of Nursing

Kansas Dental Board

Kansas Board of Pharmacy

Kansas Insurance Department

Kansas Department on Aging Long Term Care Ombudsman

Medicaid Fraud and Abuse Division Case Activity

The Chief Investigator and the Director serve as contacts to receive reports of fraud and abuse. The Division uses an assessment process that is designed to effectively review referrals and complaints to identify those matters which have substantial potential for criminal prosecution. The Research Analyst has online access to Medicaid billing information and routinely is involved in the assessment process. Those matters that do not merit further investigation are referred, when possible, to the appropriate regulatory, civil recoupment or law enforcement authority.

Current Case Activity

The cases under investigation by the Division involve a wide range of Medicaid services and provider groups. Affected Medicaid recipients are receiving the services in long term care settings, community-based settings, and traditional medical services delivery systems. The cases are located in rural and urban communities throughout the state.

Case Data Information

At the beginning of the reporting period, the Division had 77 open cases involving 15 out of 22 provider categories for which Medicaid will pay for services. Currently, the Division has 88 open cases involving 15 provider groups.

State Prosecutions

The Division prosecuted the following criminal cases:

State of Kansas v. Fidelia Okoronkwo, Shawnee County District Court Case No. 99CR3167.

On August 9, 1999, Okoronkwo was charged with involuntary manslaughter in connection with an incident that took place on October 21, 1997. The criminal complaint alleges that a 93-year-old adult care home resident choked and died after Okoronkwo, a certified nurse's aide/certified medication aide, fed the resident food that had not been pureed in accordance with the resident's dietary orders. Okoronkwo was found not competent to stand trial and is currently undergoing treatment at a state mental facility. The charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

State of Kansas v. Nadeane Loudermilk, Osage County District Court Case No. 00CR86.

On February 14, 2000, Loudermilk was charged with one felony count of Medicaid Fraud. According to the criminal complaint, Loudermilk completed time sheets claiming that she provided personal care attendant services in January, February and March 1999, when, in fact, she was incarcerated and the services were not provided.

On July 18, 2000, Loudermilk pleaded guilty as charged and agreed to pay full restitution and investigation costs. In September 2000, she was sentenced to probation. As conditions of probation, she was ordered to serve 30 days in jail and pay full restitution and investigation costs in the amount of \$5,453.

State of Kansas v. Frank Bentley, Shawnee County District Court Case No. 00CR473.

On February 28, 2000, Bentley was charged with one felony count of Medicaid Fraud. According to the complaint, Bentley submitted time sheets claiming that he provided personal attendant care services to a

Home and Community Based Services recipient in September 1998, and June 1999, during times that he was actually working as a security guard and did not provide the services. On August 3, 2000, Bentley pleaded no contest to the charge. On September 29, 2000, he was given a suspended sentence of six months in prison and placed on supervised probation for one year. Bentley also was ordered to pay full restitution to the Medicaid program and investigation costs in the amount of \$2,571.

State of Kansas v. Stefanie Munsterman, Brown County District Court Case No. 00-CR-86.

On April 12, 2000, Stephanie Munsterman was charged with one felony count of Medicaid Fraud and five misdemeanor counts of false claims. Munsterman was employed as a case manager at a Community Mental Health Center. According to the complaint, Munsterman claimed that she provided Medicaid funded, targeted case management services to children between December 1997, and July 1998, when Munsterman either did not provide the services she claimed or provided services for less time than she claimed. The complaint also alleged that Munsterman submitted false mileage reimbursement vouchers. Munsterman pleaded guilty to one felony count of Medicaid fraud and one misdemeanor count of presenting a false claim. On September 28, 2000, she was sentenced to probation for one year and ordered to pay full restitution and investigation costs in the amount of \$6,125.24.

State of Kansas v. Gene Hesser, Jr., Leavenworth County District Court Case No. 0012CR1070.

Gene Hesser, Jr. was charged on December 14, 2000, with two misdemeanor counts each of Mistreatment of a Dependent Adult and Battery. The criminal complaint alleged that Hesser, while working as a certified nurse's aide/certified medical aide at a nursing facility, held his forearm across a resident's neck and pushed the resident's head against a door frame. On March 16, 2001, Hesser pleaded guilty to two counts of battery and was subsequently sentenced to one year of supervised probation.

State of Kansas v. Terry Temple, Johnson County District Court
Case No. 00-CR-3415.

On December 15, 2000, Terry Temple was charged with one count of Medicaid fraud and one felony count of making false information. The complaint alleged that Temple submitted false time sheets and was paid for Medicaid funded personal care attendant services that she did not actually provide. Temple was supposed to provide the services to her grandmother. Temple submitted time sheets for a period of time when her grandmother was actually residing in a nursing facility and did not receive services from Temple.

On March 20, 2000, Temple pleaded guilty to one misdemeanor count of Medicaid fraud and one misdemeanor count of theft. Temple was given a suspended sentence of 10 days in jail. She was placed on probation and ordered to pay full restitution and investigation costs in the amount of \$2,930 and perform 40 hours of community service.

State of Kansas v. Christine Allen, Wyandotte County District Court
Case No. 01CR145.

On February 1, 2001, Christine Allen was charged with five counts of Mistreatment of a Dependent Adult. According to the criminal complaint, Allen was the owner of an adult care home that provided care for five persons suffering from severe and persistent mental illness or senile dementia. On November 29, 2000, the home was declared unfit for habitation after law enforcement officers and inspectors found that the home had no running water, no heat, a defective sewage system, exposed electrical wiring and rotted floors. In addition, rotten food was observed on the counters and in the refrigerators and freezers at the home and the residents reported eating dog food. The case is currently pending in Wyandotte County District Court. The charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

State of Kansas v. Arlene Pratt, Shawnee County District Court Case
No. 01CR344.

Arlene Pratt was charged on March 15, 2001, with three felony counts of Medicaid Fraud and two felony counts of conspiracy to commit Medicaid

Fraud. The criminal complaint alleges that Pratt conspired with three caregivers to submit false time sheets regarding home and community based services to be provided to her autistic son. A jury trial is scheduled for August 20, 2001. The charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

State of Kansas v. Larry Fondren, Shawnee County District Court Case No. 01CR847.

On June 14, 2001, Larry Fondren was charged with one felony count of Medicaid Fraud. According to the criminal complaint, Fondren was a home and community based services personal care attendant who claimed he provided services while either he or the recipient was incarcerated in a county jail. The charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

Federal Prosecutions

United States v. Herbert Daniels, United States District Court for the District of Kansas Case No. 99-40099-01-DES.

Daniels is charged in a multiple count indictment with health care fraud and mail fraud. The indictment alleges that Daniels falsified patients' files regarding their need for various types of ear, nose and throat surgeries, that he performed unnecessary surgeries and filed claims for surgical procedures he did not perform. The Division, in cooperation with the United States Attorney, obtained claims data to support two mail fraud counts.

In September 2000, a trial resulted in a hung jury. Daniels was re-indicted and a trial is scheduled for September 25, 2001.

The charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

Program Exclusions

During the reporting period the Division submitted the names of 13 individuals for exclusion by the Health and Human Services Office of Inspector General.

Global Settlements

The Division participates in national cases, described as global cases. They are complex multi-state and multi-issues cases which are most effectively investigated and prosecuted through the team effort of state Medicaid Fraud Control Units and the federal government.

The cases arise because of fraudulent conduct by a provider which is initially discovered and investigated by another state Medicaid Fraud Control Unit or federal investigative agency. The investigations establish that the fraudulent conduct has resulted in losses to Medicaid programs in many or all states.

Currently, the Division is participating in four separate global cases.

Case Activity Projections

The Division has progressively increased the number of investigations, prosecutions and program exclusions. The Division will attempt to continue this trend.

Training

The Division has committed itself to providing staff the opportunity to experience a wide variety of training targeted to educating them on the basics of health care fraud and the skills and techniques needed to understand and anticipate the changes that are happening in the field of investigation and prosecution as well as the health care economy and public sector health care programs. A list of the training received by the Division staff is contained in Appendix A.

Public Awareness

The Kansas Medicaid Fraud and Abuse Division is dedicated to providing education to the public and Medicaid providers about the Kansas Medicaid program, state and national health care fraud issues and specific provider-oriented education. The Division makes presentations to legal and health care professionals, state workers, and the general public on the content and purpose of the Kansas Medicaid Fraud Control Act, health care fraud and abuse, neglect, and exploitation. A table describing presentations made by the Division is contained in Appendix B.

Policy and Procedure Manual

The Kansas Medicaid Fraud and Abuse Division has actively developed policies and procedures to use in the accomplishment of Division responsibilities. The topics covered address investigation and prosecution procedures, as well as office procedures. The Manual is a working document that is changed to reflect the need for guidance and procedures adequate to assist in the accomplishments of the tasks of the Division.

Federal Performance Standards

The Kansas Medicaid Fraud and Abuse Division is required to comply with federal performance standards. The standards are used by the United States Department of Health and Human Services, Office of Inspector General, to recertify a Division and to assess its effectiveness during on-site reviews. Each section of this annual report is in response to specific performance standards. The annual report demonstrates that the Kansas Medicaid Fraud and Abuse Division has met the performance standards.

1. A Unit will be in conformance with all applicable statutes, regulations and policy directives.
2. A Unit should maintain staff levels in accordance with staffing allocations approved in its budget.

3. A Unit should establish policies and procedures for its operations, and maintain appropriate systems for case management and case tracking.
4. A Unit should take steps to ensure that it maintains an adequate workload through referrals from the single State agency and other sources.
5. A Unit's case mix, when possible, should cover all significant provider types.
6. A Unit should have a continuous case flow, and cases should be completed in a reasonable time.
7. A Unit should have a process for monitoring the outcome of cases.
8. A Unit will cooperate with the OIG and other Federal agencies, whenever appropriate and consistent with its mission, in the investigation and prosecution of health care fraud.
9. A Unit should make statutory or programmatic recommendations, when necessary, to the State government.
10. A Unit should periodically review its Memorandum of Understanding (MOU) with the single State Medicaid agency and seek amendments, as necessary, to ensure it reflects current law practice.
11. A Unit director should exercise proper fiscal control over the unit resources. A report of expenditures is attached as Appendix C.
12. A Unit should maintain an annual training plan for all professional disciplines.

Appendix A

**OFFICE OF THE KANSAS ATTORNEY GENERAL
MEDICAID FRAUD AND ABUSE DIVISION**

TRAINING

NATIONAL	DATE	TRAINING	ATTENDEES
	9/18/00	Fraud Advisory Board Training	Denise Desch
	9/19 - 9/20/00	VIPS Interact 2000 Customer Conference	Denise Desch
	9/21 - 9/22/00	MIDAS 4.5 Version Training	Denise Desch
	9/18 - 9/22/00	NAMFCU 2000 Annual Conference	Jon Fleenor
	03/02/01	Advanced Medicaid Fraud Training	Ronald Scheid
	3/21/- 3/23/01	NAMFCU Directors Symposium	Jon Fleenor
	3/21 - 3/22/01	FID Training (Fraud Investigative Database)	Denise Desch
	6/4 - 6/7/01	HHS/Office of Inspector General Medicaid Fraud Control Unit Training Conf.	Jerry Martens
STATE	8/7/00	Search & Seizure Update- Telenet 2	Marla Myers
	8/28/00	Clandestine Laboratories	Marla Myers
	9/25/00	Preventing Crimes Against Older Citizens	Ronald Scheid
	9/25/00	Preventing Crimes Against Older Citizens	Philip McManigal
	9/27/00	Preventing Crimes Against Older Citizens	Pamela Horn

	10/16/00	Kansas County and District Attorneys Assoc.	Jon Fleenor
	10/17/00	Continuing Legal Education	Jon Fleenor
	10/19/00	Firearms Proficiency Testing	Pamela Horn
	10/19/00	Midwest Transport Network	Phil McManigal
	10/24 - 10/27/00	HCFA Region VII Fraud Conference	Jerry Martins
	11/15/00	Firearms Qualification	Phil McManigal
	11/15/00	Firearms Qualification	Marla Myers
	11/13/00	Nomenclature procedures and terminology of dentistry	Pamela Horn
	11/14/00	Dental Office Personnel training seminar	Pamela Horn
	11/15/00	Nomenclature procedures and terminology of orthodontics	Pamela Horn
	12/11/00	Mental Health Issues and Law Enforcement	Phil McManigal
	12/11/00	Mental Health Issues and Law Enforcement	Ron Scheid
	12/11/00	Mental Health Issues and Law Enforcement	Marla Myers
	03/30/01	Firearms Qualification	Ronald Scheid
	4/5/01	Firearms Qualification	Pamela Horn
	4/18/01	Forensic Studies of Decomposing Cadavers	Philip McManigal
	4/24/01	Financial Abuse Specialist Team	Philip McManigal
	4/24/01	Financial Abuse Specialist Team	Ronald Scheid
	05/01/01	Interrogation Techniques	Phil McManigal
	05/22/01	Major Case Squad Training	Marla Myers
	5/22 - 23/01	Major Case Squad Training	Phil McManigal

	5/24/01	Investigation of Computer Crimes	Pamela Horn
	5/30/01	Firearms Qualification	Phil McManigal
	6/21/01	Police Suicide - Officer Survival	Pamela Horn
LOCAL	10/17/00	Vulnerable Adult Abuse Training	Ronald Scheid
	10/17/00	Vulnerable Adult Abuse Training	Marla Myers
	11/2/00	MDS 2.0 The Basics	Ron Scheid
	11/2/00	MDS 2.0 The Basics	Marla Myers
	11/2/00	MDS 2.0 The Basics	Phil McManigal
	11/13/00	Computer Tech. For Law Enforcement	Marla Myers
	11/13/00	Computer Tech for Law Enforcement	Phil McManigal
	11/16/00	Raps & Care Planning	Marla Myers
	11/16/00	Raps & Car Planning	Phil McManigal
	12/07/00	Asset Forfeiture	Phil McManigal
	02/05/01	Defensive Driving	Pam Horn
	4/18/01	Overview of Function/Duties of Secret Service	Marla Myers

Appendix B

Appendix C

State of Kansas
Office of Attorney General
Division of Medicaid Fraud and Abuse

Analysis of Federal Receipts and Disbursements from 10/01/00 to 6/30/01

	<u>TOTAL</u>	<u>FEDERAL</u>	<u>STATE</u>
Receipts FYE 9/30/01 (3 Qtrs)	\$449,317.03	\$320,000.00	\$129,317.03
Expenditures FYE 9/30/01 (3 Qtrs)	(\$468,916.62)	(\$360,503.62)	(\$108,413.00)
Add: Accrued Indirect Cost	\$35,264.61	\$35,264.61	
Unapproved Receipts for State Match			
Current Year Balance	\$15,665.02	(\$5,239.01)	\$20,904.03
Current Balance of Fund 2641	\$0.00		\$0.00
Fraud Recoveries Not Approved for State Match	\$0.00		\$0.00
Balance of Fund 2615 - 10/01/00	(\$1,432.48)	\$6,183.36	(\$7,615.84)
Cash Balance for Medicaid Fraud	\$14,232.54	\$944.35	\$13,288.19
Vouchers Payable			
Pending Deposit			
State Match P/E			
Estimated Cash Balance (Balance less Expenses)	\$14,232.54	\$944.35	\$13,288.19
Receipts FYE 9/30/96	\$520,618.01	\$471,045.00	\$49,573.01
Expenditures FYE 9/30/96	(\$495,049.46)	(\$445,544.51)	(\$49,504.95)
Totals for FYE 9/30/96	\$25,568.55	\$25,500.49	\$68.06
Receipts FYE 9/30/97	\$610,135.10	\$538,200.00	\$71,935.10
Expenditures FYE 9/30/97	(\$637,468.35)	(\$573,721.52)	(\$63,746.83)
Totals for FYE 9/30/97	(\$27,333.25)	(\$35,521.52)	\$8,188.27
Receipts FYE 9/30/98	\$715,098.89	\$649,900.00	\$65,198.89
Indirect Cost Accrued	\$89,539.00	\$89,539.00	
Receipts - State Restitution			
Expenditures FYE 9/30/98	(\$815,375.38)	(\$744,391.74)	(\$70,983.64)
Totals for FYE 9/30/98	(\$10,737.49)	(\$4,952.74)	(\$5,784.75)
Receipts FYE 9/30/99	\$720,450.60	\$542,361.00	\$178,089.60
Receipts - State Restitution	(\$5,686.81)		(\$5,686.81)
Indirect Cost Accrued	\$92,051.00	\$92,051.00	
Expenditures FYE 9/30/99	(\$794,640.12)	(\$618,992.84)	(\$175,647.28)
Totals for FYE 9/30/99	\$12,174.67	\$15,419.16	(\$3,244.49)
Receipts FYE 9/30/2000	\$630,519.84	\$447,100.00	\$183,419.84
Receipts - State Restitution	(\$43,142.18)		(\$43,142.18)
Indirect Cost Accrued	\$70,055.11	\$70,055.11	
Expenditures FYE 9/30/2000	(\$658,537.81)	(\$511,417.14)	(\$147,120.67)
Totals for FYE 9/30/2000	(\$1,105.04)	\$5,737.97	(\$6,843.01)
Total Prior Years - Receipts	\$3,448,467.55	\$2,900,251.11	\$548,216.44
Total Prior Years - Expenditures	(\$3,449,900.11)	(\$2,894,067.75)	(\$555,832.36)
BALANCES	(\$1,432.56)	\$6,183.36	(\$7,615.92)

