

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**ALASKA STATE MEDICAID FRAUD
CONTROL UNIT:
2016 ONSITE REVIEW**



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ALASKA STATE MEDICAID FRAUD CONTROL UNIT: 2016 ONSITE REVIEW

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WHY WE DID THIS STUDY

The Office of Inspector General (OIG) administers the Medicaid Fraud Control Unit (MFCU or Unit) grant awards, annually recertifies the Units, and oversees the Units' performance in accordance with the requirements of the grant. As part of this oversight, OIG conducts periodic reviews of all Units and prepares public reports based on these reviews. These reviews assess the Unit's adherence to the 12 MFCU performance standards and compliance with applicable Federal statutes and regulations.

HOW WE DID THIS STUDY

We conducted an onsite review of the Alaska Unit in August 2016. We based our review on an analysis of data from seven sources: (1) policies, procedures, and documentation related to the Unit's operations, staffing, and caseload; (2) financial documentation for fiscal years (FYs) 2013 through 2015; (3) structured interviews with key stakeholders; (4) a survey of Unit staff; (5) structured interviews with the Unit's management and forensic accountant; (6) a sample of files for cases that were open in FYs 2013 through 2015; and (7) observation of Unit operations.

WHAT WE FOUND

For FYs 2013 through 2015, the Alaska Unit obtained 80 criminal convictions; 36 civil judgments and settlements; and combined criminal and civil recoveries totaling \$10.4 million, and it increased its combined criminal and non-"global" civil recoveries each year. We found that the Unit was generally in compliance with applicable laws, regulations, and policy transmittals. In addition, the Unit improved its collaboration with stakeholders. Further, the Unit combated fraud in personal care services (PCS) through investigations of large PCS agencies, effective collaboration with stakeholders, and recommendations to Alaska's Medicaid agency.

However, we found two operational areas in which the Unit should improve its adherence to performance standards: the Unit's case files lacked documentation of periodic supervisory reviews, and its training plan did not specify the minimum number of training hours that Unit staff were required to complete. We also found two areas in which the Unit should improve its compliance with Federal requirements: it did not fully secure its paper case files, and it did not appropriately remove costs associated with non-Unit activities from its Federal reimbursement request. After our review, the Unit worked with OIG to return these funds.

WHAT WE RECOMMEND

We recommend that the Alaska Unit (1) develop and implement procedures to ensure that all case files include documentation of periodic supervisory reviews, (2) revise its training plan to specify the minimum number of training hours that Unit staff are required to complete, (3) revise its policies and procedures manual to include procedures for securing paper case files, and (4) develop and implement internal controls to ensure that costs associated with non-Unit activities are removed from Federal reimbursement requests. The Unit concurred with all four recommendations.

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OBJECTIVE

To conduct an onsite review of the Alaska State Medicaid Fraud Control Unit (MFCU or Unit).

BACKGROUND

The mission of MFCUs is to investigate and prosecute Medicaid provider fraud and patient abuse or neglect under State law.¹ The Social Security Act (SSA) requires each State to operate a MFCU, unless the Secretary of Health and Human Services determines that operation of a Unit would not be cost-effective because minimal Medicaid fraud exists in a particular State and the State has other adequate safeguards to protect Medicaid beneficiaries from abuse and neglect.² Currently, 49 States and the District of Columbia (States) have MFCUs.³

Each Unit must employ an interdisciplinary staff that consists of at least an investigator, an auditor, and an attorney.⁴ Unit staff review referrals of provider fraud and patient abuse or neglect to determine their potential for criminal prosecution and/or civil action. In fiscal year (FY) 2016, the 50 Units collectively reported 1,564 convictions; 998 civil settlements or judgments; and approximately \$1.9 billion in recoveries.^{5, 6}

Units must meet a number of requirements established by the SSA and Federal regulations. For example, each Unit must:

- be a single, identifiable entity of State government, distinct from the single State Medicaid agency;⁷

¹ Social Security Act (SSA) § 1903(q). Regulations at 42 CFR § 1007.11(b)(1) add that the Unit's responsibilities may include reviewing complaints of misappropriation of patients' private funds in residential health care facilities.

² SSA § 1902(a)(61).

³ North Dakota and the territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have not established Units.

⁴ SSA § 1903(q)(6); 42 CFR § 1007.13.

⁵ Office of Inspector General (OIG), *MFCU Statistical Data for Fiscal Year 2016*, Accessed at https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/expenditures_statistics/fy2016-statistical-chart.pdf on April 26, 2017.

⁶ For the purpose of this report, "FY" refers to the Federal fiscal year (October 1 through September 30).

⁷ SSA § 1903(q)(2); 42 CFR § 1007.5 and 1007.9(a).

- develop a formal agreement, such as a memorandum of understanding (MOU), that describes the Unit’s relationship with the State Medicaid agency;⁸ and
- have either statewide authority to prosecute cases or formal procedures to refer suspected criminal violations to an agency with such authority.⁹

MFCU Funding

Each MFCU is funded jointly by its State and the Federal government. Federal funding for the MFCUs is provided as part of the Federal Medicaid appropriation, but it is administered by the Department of Health and Human Services (HHS) Office of Inspector General (OIG).¹⁰ Each Unit receives Federal financial participation equivalent to 75 percent of its total expenditures, with State funds contributing the remaining 25 percent.¹¹ In FY 2016, combined Federal and State expenditures for the Units totaled \$259 million, \$194 million of which represented Federal funds.¹²

Administration and Oversight of the MFCU Program

The Secretary of HHS delegated to OIG the authority to administer the MFCU grant program.¹³ To receive Federal reimbursement, each Unit must submit an initial application to OIG for approval and be recertified each year thereafter.

In annually recertifying the Units, OIG evaluates Unit compliance with Federal requirements and adherence to performance standards. The Federal requirements for Units are contained in the SSA, regulations, and policy guidance.¹⁴ In addition, OIG has published 12 performance standards that it uses to assess whether a Unit is effectively performing its responsibilities.¹⁵ The standards address topics such as staffing, maintaining adequate referrals, and cooperation with Federal authorities. Appendix A contains these performance standards.

⁸ 42 CFR § 1007.9(d).

⁹ SSA § 1903(q)(1).

¹⁰ SSA § 1903(a)(6)(B).

¹¹ Ibid.

¹² Office of Inspector General (OIG), *MFCU Statistical Data for Fiscal Year 2016*, Accessed at https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/expenditures_statistics/fy2016-statistical-chart.pdf on April 26, 2017.

¹³ The SSA authorizes the Secretary of HHS to award grants to the Units (SSA § 1903(a)(6)); the Secretary delegated this authority to the OIG.

¹⁴ On occasion, OIG issues policy transmittals to provide guidance and instructions to MFCUs.

¹⁵ 77 Fed. Reg. 32645 (June 1, 2012).

OIG also performs periodic onsite reviews of the Units, such as this review of the Alaska MFCU. During these onsite reviews, OIG evaluates Units' compliance with laws, regulations, and policies, as well as their adherence to the 12 performance standards. OIG also makes observations about best practices, provides recommendations to the Units, and monitors the implementation of the recommendations. These evaluations differ from other OIG evaluations in that they support OIG's direct administration of the MFCU grant program. However, these evaluations are subject to the same internal quality controls as other OIG evaluations, including internal peer review.

OIG provides additional oversight, including the collection and dissemination of performance data, training, and technical assistance.

Alaska MFCU

The Alaska Unit is an autonomous entity within the State Attorney General's office (which Alaska calls the Department of Law) and is located in Anchorage. The Unit investigates and prosecutes cases of Medicaid fraud and cases of patient abuse or neglect. At the time of our review, the Unit's staff was composed of a director, who served as the chief attorney; one additional attorney; one chief investigator; five investigators; one forensic accountant; and one administrative staff member.

The Unit receives most of its referrals from the program integrity unit within the State's Department of Health and Social Services, which is Alaska's Medicaid agency. The Unit also receives referrals from the Division of Senior and Disabilities Services (which oversees Alaska's Personal Care Services Program, among other programs), other law enforcement agencies, and private citizens. Appendix B identifies the Unit referrals by source for FYs 2013 through 2015. When the Unit receives a referral, the chief investigator conducts a preliminary assessment to determine whether the allegation has the potential for full investigation and is within the Unit's grant authority. If the preliminary assessment shows that the allegation meets these criteria, the chief investigator assigns an investigator and opens the case. At the time of our review, the director and deputy director served as the Unit's attorneys and prosecuted the Unit's cases. Appendix C provides details on opened and closed investigations.

Previous Review

In 2010, OIG issued a report regarding its previous onsite review of the Alaska Unit. The review found that the Unit adhered to the

12 performance standards and complied with all applicable Federal rules and regulations that govern the grant.

METHODOLOGY

We conducted the onsite review in August 2016. We based our review on an analysis of data from seven sources: (1) policies, procedures, and documentation related to the Unit's operations, staffing, and caseload; (2) financial documentation for FYs 2013 through 2015; (3) structured interviews with key stakeholders; (4) a survey of Unit staff; (5) structured interviews with the Unit's management and forensic accountant; (6) a sample of files for cases that were open in FYs 2013 through 2015; and (7) observation of Unit operations. Appendix D provides details of our methodology.

Standards

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

FINDINGS

For FYs 2013 through 2015, the Alaska Unit reported 80 criminal convictions and 36 civil judgments and settlements

Exhibit 1 illustrates the Unit’s annual criminal convictions and civil judgments and settlements during FYs 2013 through 2015. Of the Unit’s 80 convictions over the 3-year period, 78 involved provider fraud and 2 involved patient abuse or neglect. Of the Unit’s 36 civil judgments and settlements, 26 were a result of “global”¹⁶ cases, and 10 were a result of nonglobal cases that the Unit directly investigated. Most of the Unit’s convictions over the 3 years (71 of the 80) involved personal care services (PCS) fraud.

Exhibit 1: Alaska MFCU Criminal Convictions and Civil Judgments and Settlements, FYs 2013 through 2015

Case Outcomes	FY 2013	FY 2014	FY 2015	3-Year Total
Criminal Convictions	19	43	18	80
Civil Judgments and Settlements	10	18	8	36

Source: OIG review of Unit-submitted quarterly and annual statistical reports, 2017.

For FYs 2013 through 2015, the Alaska Unit reported recoveries of \$10.4 million, and its criminal and nonglobal civil recoveries increased each year

For FYs 2013 through 2015, the Unit reported combined criminal and civil recoveries totaling \$10.4 million. Global cases accounted for \$7.5 million of the \$10.4 million in total recoveries.

During this period, the Unit’s combined criminal and nonglobal civil recoveries increased sharply, from approximately \$58,000 in FY 2013 to \$2.2 million in FY 2015. According to the Unit, the large amount of nonglobal civil recoveries in FY 2015 was a result of a single case against a PCS agency for falsifying medical records.

¹⁶ “Global” cases are civil False Claims Act cases that are litigated in Federal courts by the U.S. Department of Justice and involve a group of MFCUs. The National Association of Medicaid Fraud Control Units facilitates the settlement of global cases on behalf of the States.

Of the approximately \$2.9 million in combined criminal and nonglobal civil recoveries, \$1.2 million were from criminal cases and \$1.7 million were from civil cases. Exhibit 2 illustrates the Unit’s annual recoveries and expenditures for FYs 2013 through 2015.

Exhibit 2: Alaska MFCU-Reported Recoveries and Total Expenditures, by Year, FYs 2013 through 2015

	FY 2013	FY 2014	FY 2015	3-Year Total
Total Civil and Criminal Recoveries	\$1,097,442	\$6,956,831	\$2,298,122	\$10,352,395
Global Civil Recoveries	\$1,039,836	\$6,400,763	\$60,099	\$7,500,698
Nonglobal Civil Recoveries	\$200	\$35,481	\$1,628,023	\$1,663,704
Criminal Recoveries	\$57,406	\$520,587	\$610,000	\$1,187,993
Total Expenditures	\$1,156,792	\$1,105,990	\$1,279,525	\$3,542,307

Source: OIG review of the Unit-submitted quarterly and annual statistical reports, 2017.

Eighty-eight percent of Unit case files lacked documentation of periodic supervisory reviews

Eighty-eight percent of the Unit’s case files that were open for at least 6 months lacked documentation of periodic supervisory reviews.¹⁷ Performance Standards 5(b) and 7(a) state that supervisors should periodically review the progress of cases, consistent with Unit policies and procedures, to ensure that each stage of an investigation and prosecution is completed in an appropriate timeframe, and note in the case file that the reviews take place. Both Unit management and investigators reported that supervisors periodically review cases. However, the Unit did not have a practice of noting such reviews in the case files, nor did it have written procedures for supervisors to do so. Unit management stated that, as theirs is a small Unit, managers and investigators work closely with one another to investigate cases and prepare them for prosecution. According to Unit management, this provides an opportunity to informally review cases and give feedback.

¹⁷ We performed this analysis on the 58 cases in our sample that were open for at least 6 months; cases open for a shorter time may not warrant supervisory review. Appendix E contains the point estimate and 95-percent confidence interval for this estimate, derived from our review of case files.

The Unit’s training plan did not specify the minimum number of training hours that Unit staff were required to complete

The Unit’s training plan did not specify the annual minimum number of training hours that staff from each professional discipline were required to complete. According to Performance Standard 12(a), the Unit should have a training plan that includes an annual minimum number of training hours that is at least as stringent as required for professional certification. Although the Unit’s training plan did not specify the minimum number of hours, Unit management reported that staff did participate in various MFCU-related trainings on topics such as identifying fraudulent identity documents; preservation and collection of digital evidence; and coding on claims for durable medical equipment.

The Unit did not fully secure its paper case files

During the onsite review, OIG observed that the Unit stored paper case files in unlocked offices and file cabinets. Federal regulations require Units to “safeguard the privacy rights of all individuals and provide safeguards to prevent the misuse of information” under the Unit’s control.¹⁸ This includes safeguarding potentially sensitive personally identifiable information about witnesses, victims, suspects, and informants. Unit management explained that although individuals must use a coded access card to enter the Unit’s general office area, janitorial staff routinely accessed the Unit’s office during nonbusiness hours when Unit staff were not present—meaning that non-Unit staff had unsupervised access to the paper case files. The Unit had a policy related to case file security, but it did not specify how and where to securely store paper files.

The Unit did not appropriately remove costs associated with non-Unit activities from its Federal reimbursement request

During FY 2015, a Unit staff member performed activities that were not related to the Unit, and the Unit did not remove the appropriate portion of the staff member’s salary from the MFCU grant reimbursement request. Federal regulations state that a Unit may request Federal reimbursement only for costs attributable to the establishment and operation of the Unit.¹⁹ Although OIG guidance permits Unit staff to engage in temporary

¹⁸ 42 CFR § 1007.11(f).

¹⁹ 42 CFR § 1007.19(d).

non-Unit activities, the Unit must document and maintain records of the time spent on these activities, and exclude the time from the Unit's requests for reimbursement.²⁰ In this case, the Unit staff member provided three non-Unit related trainings and performed legal duties for the District Attorney's Office. The Unit documented and maintained records of the time spent on non-Unit activities. However, the Unit did not exclude 50.5 hours (equaling a Federal share of \$3,174) from its reimbursement request for the staff member's salary. After our review, the Unit worked with OIG to return these funds.

Other observation: The Unit improved its collaboration with stakeholders

All Unit stakeholders reported that communication and/or collaboration with the Unit substantially improved during FYs 2013 through 2015, following the appointment of a new director in October 2012.²¹ HHS OIG, for example, noted that the frequency of communication with the Unit changed from sporadic, quarterly meetings in FY 2013 to almost weekly communication a year later. Further, HHS OIG reported that the number of joint cases with the Unit increased from 3 cases in FY 2012 to 10 cases in FY 2015. Other Unit stakeholders (representatives from the Alaska Medicaid Program Integrity Division, Alaska Adult Protective Services, Alaska Senior and Disabilities Services, the United States Attorney's Office, and the Federal Bureau of Investigation) also attributed improvements in collaboration to the Unit director's efforts.

Other observation: The Unit combated PCS fraud through investigations of large PCS agencies, effective collaboration with stakeholders, and recommendations to Alaska's Medicaid agency

During our review period, the Unit investigated and prosecuted two large PCS agencies. The Unit's Medicaid fraud charges against one of these agencies resulted in a plea agreement stipulating that the agency could no longer bill Medicaid and must pay a fine of \$300,000 and restitution of

²⁰ OIG, *OIG State Fraud Policy Transmittal Number 2014-1*. Accessed at https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/policy_transmittals/State%20Fraud%20Policy%20Transmittal%20No%20%202014-1.pdf on April 5, 2017.

²¹ After our onsite review in August 2016, the Unit director was promoted to another position in the Alaska Attorney General's office and a new director was appointed to the MFCU.

\$1.2 million. The Unit also successfully prosecuted PCS agency owners and employees, including numerous PCS attendants.

In conducting its PCS investigations, the Unit effectively collaborated with Federal and State partners, including the Department of Homeland Security's Immigration and Customs Enforcement (ICE).²² For example, ICE provided the Unit with access to travel records of PCS attendants or service recipients who were traveling outside the United States. Using these travel records and PCS attendant timesheets, the Unit demonstrated that attendants could not have provided the services billed to Medicaid because the PCS attendant or the recipient was outside the United States on the days in question.

On the basis of its PCS investigations, the Unit also made recommendations for program integrity improvements to Alaska's Medicaid agency. As one example, the Unit recommended that the Medicaid agency require that timesheets for PCS attendants be uniform to include dates of service, start and end times, and the type of service provided. Unit management reported that the Unit continues to work with the Medicaid agency to implement recommended improvements.

²² The Unit also collaborated with Alaska's Medicaid agency, Alaska's Department of Law, the Federal Bureau of Investigation, and HHS OIG during its PCS investigations.

CONCLUSION AND RECOMMENDATIONS

For FYs 2013 through 2015, the Alaska Unit obtained 80 criminal convictions; 36 civil judgments and settlements; and combined criminal and civil recoveries totaling \$10.4 million, and it increased its combined criminal and nonglobal civil recoveries each year. We found that the Alaska Unit was generally in compliance with applicable laws, regulations, and policy transmittals. During our review, we noted that the Unit improved its collaboration with stakeholders under new leadership, and combated PCS fraud through investigations of large PCS agencies, effective collaboration with stakeholders, and recommendations for program integrity improvements to Alaska's Medicaid agency.

However, we found two operational areas in which the Alaska Unit should improve its adherence to performance standards: the Unit's case files lacked documentation of periodic supervisory reviews, and its training plan did not specify the minimum number of training hours that Unit staff were required to complete. We also found two areas in which the Unit should improve its compliance with Federal requirements: it did not fully secure its paper case files, and it did not appropriately remove costs associated with non-Unit activities from its Federal reimbursement request.

We recommend that the Alaska Unit:

Develop and implement procedures to ensure that all case files include documentation of periodic supervisory reviews

The Unit should develop and implement written supervisory review procedures that, at a minimum, include documenting the name of the supervisor and date of review in all case files. The Unit should document the new procedures in its policies and procedures manual.

Revise its training plan to specify the minimum number of training hours that Unit staff are required to complete

The Unit should revise its training plan to specify the annual minimum number of training hours that staff from each professional discipline need to complete and continue to provide MFCU-related training for its staff.

Revise its policies and procedures manual to include procedures for securing paper case files

The Unit should revise its existing policies and procedures manual to specify how and where to securely store paper files. The Unit should develop and implement procedures to ensure that all paper case files and any associated personally identifiable information are secured from access

by non-Unit staff. At a minimum, the Unit should store its paper case files and other documentation containing personally identifiable information in locked offices or file cabinets to prevent access by janitorial staff during nonbusiness hours.

Develop and implement internal controls to ensure that costs associated with non-Unit activities are removed from Federal reimbursement requests

The Unit should develop and implement internal controls to ensure that it removes costs not related to the establishment or operations of the Unit from its MFCU grant reimbursement requests. The Unit should document the new internal controls in its policies and procedures manual.

UNIT COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

The Alaska Unit concurred with all four of our recommendations. OIG anticipates that the Unit's planned actions, when completed, will implement our recommendations.

Regarding our first recommendation (for the Unit to develop and implement procedures to ensure that all case files include documentation of periodic supervisory reviews), the Unit stated that it has implemented a process for quarterly supervisory reviews and that appropriate notations will be made in each case file.

Regarding our second recommendation (for it to revise the training plan to specify the minimum number of training hours that Unit staff are required to complete), the Unit stated that it plans to update its training plan by the end of 2017 and that it is working on ways to improve the availability of training opportunities.

Regarding our third recommendation (for it to develop and implement procedures for securing paper case files), the Unit stated that any file containing personally identifiable information will be kept in locked offices or stored in locked filing cabinets. Further, the Unit reported that since the time of the onsite review, the Unit has moved to a new suite where attorneys and investigators have locking office doors. The Unit said that it will attempt to obtain locking file cabinets in the immediate future for the general office area.

Regarding our fourth recommendation (for it to develop and implement internal controls to ensure that costs associated with non-Unit activities are removed from Federal reimbursement requests), the Unit stated that it will document any time spent on non-Unit activities and deduct the associated costs from the grant.

The full text of the Unit's comments is provided in Appendix F.

APPENDIX A

2012 Performance Standards²³

1. A UNIT CONFORMS WITH ALL APPLICABLE STATUTES, REGULATIONS, AND POLICY DIRECTIVES, INCLUDING:
A. Section 1903(q) of the Social Security Act, containing the basic requirements for operation of a MFCU;
B. Regulations for operation of a MFCU contained in 42 CFR part 1007;
C. Grant administration requirements at 45 CFR part 92 and Federal cost principles at 2 CFR part 225;
D. OIG policy transmittals as maintained on the OIG Web site; and
E. Terms and conditions of the notice of the grant award.
2. A UNIT MAINTAINS REASONABLE STAFF LEVELS AND OFFICE LOCATIONS IN RELATION TO THE STATE'S MEDICAID PROGRAM EXPENDITURES AND IN ACCORDANCE WITH STAFFING ALLOCATIONS APPROVED IN ITS BUDGET.
A. The Unit employs the number of staff that is included in the Unit's budget estimate as approved by OIG.
B. The Unit employs a total number of professional staff that is commensurate with the State's total Medicaid program expenditures and that enables the Unit to effectively investigate and prosecute (or refer for prosecution) an appropriate volume of case referrals and workload for both Medicaid fraud and patient abuse and neglect.
C. The Unit employs an appropriate mix and number of attorneys, auditors, investigators, and other professional staff that is both commensurate with the State's total Medicaid program expenditures and that allows the Unit to effectively investigate and prosecute (or refer for prosecution) an appropriate volume of case referrals and workload for both Medicaid fraud and patient abuse and neglect.
D. The Unit employs a number of support staff in relation to its overall size that allows the Unit to operate effectively.
E. To the extent that a Unit maintains multiple office locations, such locations are distributed throughout the State, and are adequately staffed, commensurate with the volume of case referrals and workload for each location.
3. A UNIT ESTABLISHES WRITTEN POLICIES AND PROCEDURES FOR ITS OPERATIONS AND ENSURES THAT STAFF ARE FAMILIAR WITH, AND ADHERE TO, POLICIES AND PROCEDURES.
A. The Unit has written guidelines or manuals that contain current policies and procedures, consistent with these performance standards, for the investigation and (for those Units with prosecutorial authority) prosecution of Medicaid fraud and patient abuse and neglect.
B. The Unit adheres to current policies and procedures in its operations.
C. Procedures include a process for referring cases, when appropriate, to Federal and State agencies. Referrals to State agencies, including the State Medicaid agency, should identify whether further investigation or other administrative action is warranted, such as the collection of overpayments or suspension of payments.
D. Written guidelines and manuals are readily available to all Unit staff, either online or in hard copy.
E. Policies and procedures address training standards for Unit employees.
4. A UNIT TAKES STEPS TO MAINTAIN AN ADEQUATE VOLUME AND QUALITY OF REFERRALS FROM THE STATE MEDICAID AGENCY AND OTHER SOURCES.
A. The Unit takes steps, such as the development of operational protocols, to ensure that the State Medicaid agency, managed care organizations, and other agencies refer to the Unit all suspected provider fraud cases. Consistent with 42 CFR 1007.9(g), the Unit provides timely written notice to the State Medicaid agency when referred cases are accepted or declined for investigation.

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²³ 77 Fed. Reg. 32645, June 1, 2012.

B. The Unit provides periodic feedback to the State Medicaid agency and other referral sources on the adequacy of both the volume and quality of its referrals.
C. The Unit provides timely information to the State Medicaid or other agency when the Medicaid or other agency requests information on the status of MFCU investigations, including when the Medicaid agency requests quarterly certification pursuant to 42 CFR 455.23(d)(3)(ii).
D. For those States in which the Unit has original jurisdiction to investigate or prosecute patient abuse and neglect cases, the Unit takes steps, such as the development of operational protocols, to ensure that pertinent agencies refer such cases to the Unit, consistent with patient confidentiality and consent. Pertinent agencies vary by State but may include licensing and certification agencies, the State Long Term Care Ombudsman, and adult protective services offices.
E. The Unit provides timely information, when requested, to those agencies identified in (D) above regarding the status of referrals.
F. The Unit takes steps, through public outreach or other means, to encourage the public to refer cases to the Unit.
5. A UNIT TAKES STEPS TO MAINTAIN A CONTINUOUS CASE FLOW AND TO COMPLETE CASES IN AN APPROPRIATE TIMEFRAME BASED ON THE COMPLEXITY OF THE CASES.
A. Each stage of an investigation and prosecution is completed in an appropriate timeframe.
B. Supervisors approve the opening and closing of all investigations and review the progress of cases and take action as necessary to ensure that each stage of an investigation and prosecution is completed in an appropriate timeframe.
C. Delays to investigations and prosecutions are limited to situations imposed by resource constraints or other exigencies.
6. A UNIT'S CASE MIX, AS PRACTICABLE, COVERS ALL SIGNIFICANT PROVIDER TYPES AND INCLUDES A BALANCE OF FRAUD AND, WHERE APPROPRIATE, PATIENT ABUSE AND NEGLECT CASES.
A. The Unit seeks to have a mix of cases from all significant provider types in the State.
B. For those States that rely substantially on managed care entities for the provision of Medicaid services, the Unit includes a commensurate number of managed care cases in its mix of cases.
D. As part of its case mix, the Unit maintains a balance of fraud and patient abuse and neglect cases for those States in which the Unit has original jurisdiction to investigate or prosecute patient abuse and neglect cases.
C. The Unit seeks to allocate resources among provider types based on levels of Medicaid expenditures or other risk factors. Special Unit initiatives may focus on specific provider types.
E. As part of its case mix, the Unit seeks to maintain, consistent with its legal authorities, a balance of criminal and civil fraud cases.
7. A UNIT MAINTAINS CASE FILES IN AN EFFECTIVE MANNER AND DEVELOPS A CASE MANAGEMENT SYSTEM THAT ALLOWS EFFICIENT ACCESS TO CASE INFORMATION AND OTHER PERFORMANCE DATA.
A. Reviews by supervisors are conducted periodically, consistent with MFCU policies and procedures, and are noted in the case file.
B. Case files include all relevant facts and information and justify the opening and closing of the cases.
C. Significant documents, such as charging documents and settlement agreements, are included in the file.
D. Interview summaries are written promptly, as defined by the Unit's policies and procedures.
E. The Unit has an information management system that manages and tracks case information from initiation to resolution.
F. The Unit has an information management system that allows for the monitoring and reporting of case information, including the following:
1. The number of cases opened and closed and the reason that cases are closed.

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2. The length of time taken to determine whether to open a case referred by the State Medicaid agency or other referring source.
3. The number, age, and types of cases in the Unit's inventory/docket
4. The number of referrals received by the Unit and the number of referrals by the Unit to other agencies.
5. The number of cases criminally prosecuted by the Unit or referred to others for prosecution, the number of individuals or entities charged, and the number of pending prosecutions.
6. The number of criminal convictions and the number of civil judgments.
7. The dollar amount of overpayments identified.
8. The dollar amount of fines, penalties, and restitution ordered in a criminal case and the dollar amount of recoveries and the types of relief obtained through civil judgments or pre-filing settlements.
8. A UNIT COOPERATES WITH OIG AND OTHER FEDERAL AGENCIES IN THE INVESTIGATION AND PROSECUTION OF MEDICAID AND OTHER HEALTH CARE FRAUD.
A. The Unit communicates on a regular basis with OIG and other Federal agencies investigating or prosecuting health care fraud in the State.
B. The Unit cooperates and, as appropriate, coordinates with OIG's Office of Investigations and other Federal agencies on cases being pursued jointly, cases involving the same suspects or allegations, and cases that have been referred to the Unit by OIG or another Federal agency.
C. The Unit makes available, to the extent authorized by law and upon request by Federal investigators and prosecutors, all information in its possession concerning provider fraud or fraud in the administration of the Medicaid program.
D. For cases that require the granting of "extended jurisdiction" to investigate Medicare or other Federal health care fraud, the Unit seeks permission from OIG or other relevant agencies under procedures as set by those agencies.
E. For cases that have civil fraud potential, the Unit investigates and prosecutes such cases under State authority or refers such cases to OIG or the U.S. Department of Justice.
F. The Unit transmits to OIG, for purposes of program exclusions under section 1128 of the Social Security Act, all pertinent information on MFCU convictions within 30 days of sentencing, including charging documents, plea agreements, and sentencing orders.
G. The Unit reports qualifying cases to the Healthcare Integrity & Protection Databank, the National Practitioner Data Bank, or successor data bases.
9. A UNIT MAKES STATUTORY OR PROGRAMMATIC RECOMMENDATIONS, WHEN WARRANTED, TO THE STATE GOVERNMENT.
A. The Unit, when warranted and appropriate, makes statutory recommendations to the State legislature to improve the operation of the Unit, including amendments to the enforcement provisions of the State code.
B. The Unit, when warranted and appropriate, makes other regulatory or administrative recommendations regarding program integrity issues to the State Medicaid agency and to other agencies responsible for Medicaid operations or funding. The Unit monitors actions taken by the State legislature and the State Medicaid or other agencies in response to recommendations.
10. A UNIT PERIODICALLY REVIEWS ITS MEMORANDUM OF UNDERSTANDING (MOU) WITH THE STATE MEDICAID AGENCY TO ENSURE THAT IT REFLECTS CURRENT PRACTICE, POLICY, AND LEGAL REQUIREMENTS.
A. The MFCU documents that it has reviewed the MOU at least every 5 years, and has renegotiated the MOU as necessary, to ensure that it reflects current practice, policy, and legal requirements.
B. The MOU meets current Federal legal requirements as contained in law or regulation, including 42 CFR § 455.21, "Cooperation with State Medicaid fraud control units," and 42 CFR § 455.23, "Suspension of payments in cases of fraud."

Continued on page 16

C. The MOU is consistent with current Federal and State policy, including any policies issued by OIG or the Centers for Medicare & Medicaid Services (CMS).
D. Consistent with Performance Standard 4, the MOU establishes a process to ensure the receipt of an adequate volume and quality of referrals to the Unit from the State Medicaid agency.
E. The MOU incorporates by reference the <i>CMS Performance Standard for Referrals of Suspected Fraud from a State Agency to a Medicaid Fraud Control Unit</i> .
11. A UNIT EXERCISES PROPER FISCAL CONTROL OVER UNIT RESOURCES.
A. The Unit promptly submits to OIG its preliminary budget estimates, proposed budget, and Federal financial expenditure reports.
B. The Unit maintains an equipment inventory that is updated regularly to reflect all property under the Unit's control.
C. The Unit maintains an effective time and attendance system and personnel activity records.
D. The Unit applies generally accepted accounting principles in its control of Unit funding.
E. The Unit employs a financial system in compliance with the standards for financial management systems contained in 45 CFR 92.20.
12. A UNIT CONDUCTS TRAINING THAT AIDS IN THE MISSION OF THE UNIT.
A. The Unit maintains a training plan for each professional discipline that includes an annual minimum number of training hours and that is at least as stringent as required for professional certification.
B. The Unit ensures that professional staff comply with their training plans and maintain records of their staff's compliance.
C. Professional certifications are maintained for all staff, including those that fulfill continuing education requirements.
D. The Unit participates in MFCU-related training, including training offered by OIG and other MFCUs, as such training is available and as funding permits.
E. The Unit participates in cross-training with the fraud detection staff of the State Medicaid agency. As part of such training, Unit staff provide training on the elements of successful fraud referrals and receive training on the role and responsibilities of the State Medicaid agency.

APPENDIX B

Alaska MFCU Referrals by Referral Source for FYs 2013 Through 2015

Referral Source	FY 2013		FY 2014		FY 2015		Total
	Fraud	Abuse/ Neglect ¹	Fraud	Abuse/ Neglect	Fraud	Abuse/ Neglect	
Medicaid Agency – SUR/S ² or OMIG ³	84	4	0	0	60	0	148
Medicaid Agency – Other	93	6	15	0	7	0	121
Private Citizen	87	1	18	3	7	2	118
Law Enforcement	84	10	10	1	2	0	107
State Agencies – Other	60	8	21	1	1	0	91
Adult Protective Services	26	23	3	18	2	2	74
Provider	32	1	15	0	11	0	59
HHS OIG	3	0	15	0	1	0	19
Prosecutor	1	0	5	0	0	0	6
Ombudsman	1	0	1	2	0	0	4
Anonymous ⁴	N/A	N/A	N/A	N/A	4	0	4
State Survey and Certification Agency	3	0	0	0	0	0	3
Licensing Board	0	2	1	0	0	0	3
MFCU Hotline ⁵	1	1	0	0	N/A	N/A	2
Total	475	56	104	25	95	4	759
Annual Total	531		129		99		

Source: OIG analysis of Unit Quarterly and Annual Statistical Reports, 2017.

¹ The category of referrals of abuse and neglect includes referrals of misappropriation of patient funds.

² SURS = Surveillance and Utilization Review Subsystem.

³ OMIG = Office of the Medicaid Inspector General.

⁴ The referral source “Anonymous” was not a category reported on the FY 2013 and FY 2014 Quarterly Statistical Reports.

⁵ The referral source “MFCU hotline” was not a category reported on the FY 2015 Annual Statistical Report.

APPENDIX C

Investigations Opened and Closed by the Alaska MFCU, by Case Type, FYs 2013 through 2015

Case Type	FY 2013	FY 2014	FY 2015	3-Year Total	Annual Average*
Opened	566	129	145	840	280
Provider Fraud	472	108	144	724	241
Patient Abuse and Neglect	94	21	1	116	39
Closed	437	179	171	787	262
Provider Fraud	348	149	164	661	220
Patient Abuse and Neglect	89	30	7	126	42

Source: OIG analysis of Unit Quarterly and Annual Statistical Reports, 2016.

*Averages in this column are rounded.

APPENDIX D

Detailed Methodology

We used data collected from the seven sources below to describe the caseload and assess the performance of the Alaska MFCU.

Data Collection

Review of Unit Documentation. Prior to the onsite visit, we analyzed information regarding the Unit’s investigation of Medicaid cases, including information about the number of referrals the Unit received; the number of investigations the Unit opened and closed; the outcomes of those investigations; and the Unit’s case mix. We also collected and analyzed information about the number of cases that the Unit referred for prosecution and the outcomes of those prosecutions.

We gathered this information from several sources, including the Unit’s quarterly statistical reports, its annual reports, its recertification questionnaire, and its policy and procedures manuals. We requested any additional data or clarification from the Unit as necessary.

Review of Unit Financial Documentation. We reviewed Unit financial documentation to identify any issues involving internal controls or the use of resources. Prior to the onsite review, we reviewed the Unit’s financial policies and procedures; its response to an internal control questionnaire; and documents (such as financial status reports) related to MFCU grants.

We reviewed four purposive samples to assess the Unit’s internal control of fiscal resources. All four samples were limited to the review period of FYs 2013 through 2015. The four samples included the following:

1. To assess the Unit’s expenditures, we selected a purposive sample of 24 items from the Unit’s 733 expenditure transactions. We selected routine and nonroutine transactions representing a variety of budget categories and payment amounts.
2. To assess the Unit’s travel expenditures, we selected a purposive sample of 24 items from the Unit’s 130 travel transactions. We selected a variety of travel expenditure categories related to both in-State and out-of-State travel, such as hotel stays, airfare, and conference expenses.
3. To assess employees’ “time and effort”—i.e., their work hours spent on various MFCU tasks—we selected a sample of three pay periods, one from each fiscal year. We then requested and reviewed documentation (e.g., timecard records) to support the time and effort of the MFCU staff during the selected pay periods.

4. We also reviewed a purposive sample of the Unit's supply inventory. Specifically, we selected and verified a purposive sample of 20 items from the current inventory list of 42 items maintained in the Unit's office.

Interviews With Key Stakeholders. In July 2016, we interviewed eight individual stakeholders from six agencies who were familiar with MFCU operations. Specifically, we interviewed one program integrity director from the State Medicaid agency; two managers from the Alaska Office of Senior and Disabilities Services; one Assistant U.S. Attorney; the Supervising Assistant Alaska Attorney General²⁴; two FBI agents based in Alaska; and one OIG Special Agent in Charge. We focused these interviews on the Unit's relationship and interaction with OIG and other Federal and State authorities, and opportunities for improvement. We used the information collected from these interviews to develop subsequent interview questions for Unit management.

Survey of Unit Staff. In July 2016, we conducted an online survey of the seven staff members within the professional disciplines (i.e., investigators, forensic accountant and attorney) and support staff. We received responses from all seven staff members. Our questions focused on operations of the Unit, opportunities for improvement, and practices that contributed to the effectiveness and efficiency of Unit operations and/or performance. The survey also sought information about the Unit's compliance with applicable laws and regulations.

Onsite Interviews with Unit Management and Forensic Accountant. We conducted structured interviews with the MFCU's director, chief investigator, and forensic accountant in August 2016. We asked these individuals to provide information related to (1) the Unit's operations; (2) Unit practices that contributed to the effectiveness and efficiency of Unit operations and/or performance; (3) opportunities for the Unit to improve its operations and/or performance; and (4) clarification regarding information obtained from other data sources.

Onsite Review of Case Files. We requested that the Unit provide us with a list of cases that were open at any point during FYs 2013 through 2015. The Unit provided a list of 543 cases that were open during FYs 2013 through 2015.²⁵ For each of these 543 cases, the Unit provided data, including the current status of each case; whether each case was criminal, civil, or global; and the date on which each case was opened. From this

²⁴ The Supervising Assistant Attorney General supervises the MFCU director.

²⁵ This figure includes some cases opened before FY 2013 that remained open at some point during FYs 2013 through 2015.

list of cases, we excluded 14 cases that were categorized as “global,” 114 cases that the Unit chose not to pursue after an initial screening, and 8 cases that were still being screened at the time of our review. The remaining number of case files was 407.

From the 407 remaining case files, we selected a simple random sample of 100 cases for review. To assess the Unit’s processes for monitoring the status and outcomes of cases, we reviewed documentation in the case files and case file tracking system that was associated with the sample of cases. From this initial sample of 100 case files, we selected a simple random sample of 50 files for a qualitative review of selected issues, such as case development. While onsite, we consulted MFCU staff to address any apparent issues with individual case files, such as missing documentation.

We did not review five of the sampled cases because they were ineligible to be a part of our review for various reasons. Two case files were duplicate files of other cases in our sample; one was a global case; one was closed prior to our review period; and one was not a full case, but rather a data pull to help another agency’s investigation. After excluding these ineligible cases, we reviewed 95 sampled case files. Of the 95 case files, 79 cases were closed and 58 had been open for more than 180 days.

Considering that there were 5 ineligible cases in the 100-case sample, it is possible that there were other ineligible cases in the population of 407 cases that the Unit identified as distinct, non-“global” investigations open at any point during FYs 2013 through 2015. Therefore, we estimated the number of case files in the population based on the eligible sample, as shown in Exhibit D-1. We estimated (1) the total number of eligible case files, (2) the number of eligible closed case files, and (3) the number of eligible case files that were open for more than 180 days.

Exhibit D-1: Estimates of the Population of Eligible Case Files

Estimate Description	Sampled Case Files	Population of Case Files	95-Percent Confidence Interval
Total eligible case files	95	387	364–399
Eligible closed case files	79	322	288–349
Eligible case files open for more than 180 days	58	236	199–272

Source: OIG analysis of Alaska MFCU case files, 2016.

Using the results of our review of the sampled case files, we report an estimate for the percentage of case files that were open longer than 180 days that lacked documentation of periodic supervisory review. We recognize that cases that have been open for a short period of time may not yet warrant supervisory review, and so we chose to exclude cases that were open for fewer than 180 days (6 months) from this analysis. The point estimate and 95-percent confidence interval are in Appendix E.

Onsite Review of Unit Operations. During our August 2016 onsite visit, we reviewed the Unit's workspace and operations. Specifically, we visited the Unit headquarters in Anchorage, Alaska. While onsite, we observed the Unit's offices and meeting spaces; the security of data and case files; the location of select equipment; and the general functioning of the Unit.

Data Analysis

We analyzed data to identify any opportunities for improvement and instances in which the Unit did not fully meet the performance standards or was not operating in accordance with laws, regulations, or policy transmittals.²⁶

²⁶ All relevant regulations, statutes, and policy transmittals are available online at <http://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu>.

APPENDIX E

Point Estimate and 95-Percent Confidence Interval Based on Reviews of Case Files

Estimate	Sample Size	Point Estimate	95-Percent Confidence Interval	
			Lower	Upper
Percentage of case files that were open longer than 180 days that lacked documentation of periodic supervisory review	58	87.9%	77.4%	94.6%

Source: OIG analysis of Alaska MFCU case files, 2016.

APPENDIX F

Unit Comments



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Department of Law

Criminal Division
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August 18, 2017

Suzanne Murrin
Deputy Inspector General
for Evaluation and Inspections
Department of Health and Human Services
Office of the Inspector General
Room 5660, Cohen Building
330 Independence Avenue SW
Washington, DC 20201

RE: Alaska State Medicaid Fraud Control Unit:
2016 Onsite Review, OEI-09-16-00430.

Dear Deputy Inspector General Murrin:

The State of Alaska is in receipt of the draft report concerning the results of the 2016 onsite review conducted by the Office of Inspector General (OIG). We would like to thank the OIG for the efforts expended during this process and for the feedback provided to the Alaska Medicaid Fraud Control Unit (Unit). We welcome the extensive input provided by the OIG's team and view this process as an opportunity to improve the efficacy and efficiency of our Unit.

We appreciate the many positive observations and comments made in the report. In particular, we appreciate OIG's observation that the "Unit improved its collaboration with the stakeholders under new leadership." Having a strong working relationship with our sister agencies is critical to the Unit's recent success, and we plan to continue working with those agencies to foster a strong and collaborative working relationship. Likewise, we appreciate the acknowledgment that the Unit has been innovative in coordinating with federal agencies in order to combat fraud. We look forward to developing new techniques while working alongside our mission partners to better combat fraud and patient abuse in the state of Alaska.

Regarding the four specific recommendations for improvement made by the OIG Onsite Review team in the draft report, we concur. I will note briefly below Alaska's strategies for addressing those recommendations.

- **Recommendation #1:** Develop and implement procedures to ensure that all case files include documentation of periodic supervisory reviews.
 - **Comment:** The Unit acknowledges that a more formal process for the supervisory review of all case files was needed. Until April 2015, the Alaska Unit had only one attorney – the Director. Thus, every case assigned to the unit was supervised and actively tracked by the Director. Because of this, there was no formal policy for periodic reviews.

Now that the unit has expanded to three lawyers and six investigators, we have implemented a quarterly supervisory periodic review process. During this process, every case file will be reviewed by either the Director or the Chief Investigator at least once per quarter and the appropriate notations will be made in each case’s file. That procedure has already been implemented in practice, but it still needs to be formalized in the Unit’s Policy and Procedure Manual. That will be done, along with an exhaustive update of the manual as a whole, by the end of calendar year 2017.

- **Recommendation #2:** Revise the training plan to specify the minimum number of training hours that Unit staff are required to complete.
 - **Comment:** The Unit concurs that a formal training policy plan needs to be developed in order to meet the training mandate as set forth in Performance Standard 12. Again, that policy should be completed by the end of 2017 through the Policy and Procedure update.

Alaska has faced fiscal challenges in recent years, and that has unfortunately impacted all facets of state government. Because of these fiscal challenges, funds for travel and training for state employees have been limited so that agencies could still afford to provide the most vital services to the people of Alaska. Although these challenges persist, the Unit is working on ways in which it can improve the availability of training opportunities and meet the OIG’s requirements. As the Director, in developing a viable training plan policy, I will be reviewing both the professional standards set forth for each discipline within the Unit as well as the training plan models developed by other states’ Units.

- **Recommendation #3:** Develop and implement procedures for securing paper case files.
 - **Comment:** Since the onsite evaluation took place in 2016, the Unit has relocated to a new suite in the same building. In the new suite, each Unit investigator has a locking office door that remains locked during non-business hours. Attorneys also have locking office doors and locking file cabinets. Any file containing personal identification material that is not kept in a locked office will be stored in a locked filing cabinet in the Unit’s general area. The Unit will attempt to secure fully locking file cabinets in the immediate future to fulfill that commitment.

- **Recommendation #4:** Develop and implement internal controls to ensure that costs associated with non-Unit activities are removed from Federal reimbursement request.
 - **Comment:** The Unit acknowledges there was an oversight tracking non-Unit activities in 2015 and that oversight has been corrected. In order to avoid such instances in the future, the Unit's accountant will now document any time spent on non-Unit activities by Unit members and submit that accounting accordingly so that the expense may be appropriately deducted from the grant. This policy will also be codified during the upcoming revision of the Policy and Procedures Manual.

Thank you for your valuable input and please feel free to contact me if you have any further questions or concerns.

Sincerely,



Paul J. Miovas, Jr.
Director, Alaska Medicaid Fraud Control Unit
State of Alaska - Department of LAW

ACKNOWLEDGMENTS

Linda Min served as the project leader for this study. Others in the Office of Evaluation and Inspections who conducted the study include Jordan Clementi and Rosemary Rawlins. Office of Evaluation and Inspections central office staff who provided support include Kevin Farber and Christine Moritz.

We would also like to acknowledge the contributions of other Office of Inspector General staff, including Lonie Kim in the Office of Counsel to the Inspector General and staff from the Office of Investigations.

This report was prepared under the direction of Blaine Collins, Regional Inspector General for Evaluation and Inspections in the San Francisco regional office, and Abby Amoroso and Michael Henry, Deputy Regional Inspectors General, and in consultation with Richard Stern, Director of the Medicaid Fraud Policy and Oversight Division.

Office of Inspector General

<http://oig.hhs.gov>

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