Department of Health and Human Services

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# Minnesota Medicaid Fraud Control Unit: 2022 Inspection

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Report in Brief
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## Case Outcomes

Federal fiscal years (FYs) 2020–2022

- 161 indictments
- 150 convictions
- 28 civil settlements and judgments
- $32.3 million in recoveries

## Unit Snapshot

The Minnesota Medicaid Fraud Control Unit (MFCU or Unit) is housed in the Minnesota Office of the Attorney General.

At the time of our onsite inspection in October–November 2022, the Unit had a total of 30 staff located in St. Paul.

## What OIG Found

We found that the Minnesota MFCU operated in accordance with applicable laws, regulations, and policy transmittals, and reported strong case outcomes for FYs 2020–2022. From the data we reviewed, we found that the Unit maintained positive working relationships with Federal partners and investigated cases jointly. The Unit also reported nearly all convictions and adverse actions to Federal partners within the appropriate timeframes, including cases of patient abuse or neglect that were investigated and prosecuted by local authorities.

However, we made four findings regarding the Unit's adherence to the MFCU performance standards and compliance with Federal regulations. First, we found that the director was the only supervisor in the Unit, which limited the oversight of Unit operations. Second, we found that, although the Unit took steps to coordinate with other State agencies, it received few referrals of patient abuse or neglect. Third, we found that the Unit lacked a case management system that allowed efficient and secure access to case information and case outcomes data, which posed challenges for locating documents and tracking case statuses. Finally, we found that the Unit did not consistently conduct periodic supervisory reviews or document supervisory approvals in its case files. In addition to these findings, we made several observations regarding Unit operations and practices.

## What OIG Recommends and How the Unit Responded

To address the findings, we recommend that the Unit (1) continue efforts to hire a second-line supervisor and assess whether additional supervisors are warranted to meet the Unit's oversight needs; (2) build upon its efforts to increase referrals of patient abuse or neglect; (3) implement a comprehensive case management system that allows for efficient access to case documents and information; and (4) take steps to ensure that periodic supervisory reviews are conducted on a consistent basis and that case files include documentation of supervisory approvals. The Unit concurred with all four recommendations.

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# BACKGROUND

## OBJECTIVE

To examine the performance and operations of the Minnesota Medicaid Fraud Control Unit (MFCU or Unit).

## Medicaid Fraud Control Units

MFCUs investigate Medicaid provider fraud and patient abuse or neglect and prosecute those cases under State law or refer them to other prosecuting offices.[1, 2, 3] Under the Social Security Act (SSA), a MFCU must be a "single, identifiable entity" of State government, "separate and distinct" from the State Medicaid agency, and employ one or more investigators, attorneys, and auditors.[4] Each State must operate a MFCU or receive a waiver.[5] Currently, 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands operate MFCUs.[6]

MFCUs are funded jointly by Federal and State governments. Each Unit receives a Federal grant award equivalent to 90 percent of total expenditures for new Units and 75 percent for all other Units.[7] In Federal fiscal year (FY) 2022, combined Federal and State expenditures for the MFCUs totaled approximately $343 million, of which approximately $257 million represented Federal funds.[8]

[1] SSA § 1903(q)(3)-(4). Regulations at 42 CFR § 1007.11(b)(1) clarify that a Unit's responsibilities include the review of complaints of misappropriation of patients' private funds in health care facilities.

[2] As of December 27, 2020, MFCUs may also receive Federal financial participation to investigate and prosecute abuse or neglect of Medicaid beneficiaries in a noninstitutional or other setting. Consolidated Appropriations Act, 2021, Public Law 116-260, Division CC, Section 207.

[3] References to "State" in this report refer to the States, the District of Columbia, and the U.S. territories.

[4] SSA § 1903(q).

[5] SSA § 1902(a)(61).

[6] The territories of American Samoa, Guam, and the Northern Mariana Islands have not established Units.

[7] SSA § 1903(a)(6). For a Unit's first 3 years of operation, the Federal Government contributes 90 percent of funding, and the State contributes 10 percent. Thereafter, the Federal Government contributes 75 percent, and the State contributes 25 percent.

[8] OIG analysis of MFCU annual statistical reporting data for FY 2022. The Federal FY begins on October 1 and ends on September 30 of the following year.

## OIG Grant Administration and Oversight of MFCUs

The Office of Inspector General (OIG) administers the grant award to each Unit and provides oversight of Units.[9, 10] As part of its oversight, OIG conducts a desk review of each Unit during the annual recertification process. OIG also conducts periodic inspections and reviews. Finally, OIG provides ongoing training and technical support to the Units.

In its annual recertification review, OIG examines the Unit's reapplication materials, case statistics, and questionnaire responses from Unit stakeholders. Through the recertification review, OIG assesses a Unit's performance, as measured by the Unit's adherence to published performance standards;[11] the Unit's compliance with applicable laws, regulations, and OIG policy transmittals;[12] and the Unit's case outcomes.

OIG further assesses Unit performance by conducting inspections and reviews of selected Units. These inspections and reviews result in public reports of findings and recommendations for improvement. OIG reports may also include observations regarding Unit operations and practices, including beneficial practices that may be useful to share with other Units. OIG also provides training and technical assistance to Units, as appropriate, during inspections and reviews.

## Minnesota MFCU

The Minnesota MFCU is located within the State Attorney General's Office in St. Paul. At the time of our onsite inspection in October–November 2022, the Unit had 30 staff—13 investigators (including a nurse investigator), 7 attorneys (including the Unit director), 2 analysts, 1 auditor, and 7 other staff.[13] The director was the only supervisor in the Unit. During our review period of FYs 2020–2022, the Unit spent approximately $10.8 million, with a State share of approximately $2.7 million.

[9] As part of grant administration, OIG receives and examines financial information from Units, such as budgets and quarterly and final Federal Financial Reports that detail MFCU income and expenditures.

[10] The SSA authorizes the Secretary of Health and Human Services to award grants (SSA § 1903(a)(6)) and to certify and annually recertify the Units (SSA § 1903(q)). The Secretary delegated these authorities to OIG in 1979.

[11] MFCU performance standards are published at 77 Fed. Reg. 32645 (June 1, 2012). The performance standards were developed by OIG in conjunction with the MFCUs and were originally published at 59 Fed. Reg. 49080 (Sept. 26, 1994).

[12] OIG occasionally issues policy transmittals to provide guidance and instruction to MFCUs. Policy transmittals are located at https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/index.asp.

[13] The seven other staff were three paralegals, three legal secretaries, and an administrative specialist.

## Referrals

During FYs 2020–2022, the MFCU reported receiving Medicaid provider fraud referrals from several sources, including the State Medicaid agency's program integrity unit, managed care organizations, and private citizens. The MFCU may also receive referrals of patient abuse or neglect from the Minnesota Department of Health (MDH), the State Medicaid agency's licensing division, and local adult protective teams.[14, 15, 16] See Appendix A for a list of Unit referrals by source for FYs 2020–2022.

When the Unit receives a referral of fraud or patient abuse or neglect, the auditor conducts an initial review of the information and submits a referral analysis to the Unit director, who decides whether the Unit should accept or decline the referral. If the director declines to open a referral for investigation, the Unit closes the referral, notifies the referring agency of its decision, and evaluates the referral for possible administrative action by the State Medicaid agency.

The Unit may also generate internal referrals from its own casework or analysis. For example, Unit attorneys and investigators may submit a request to open a new investigation, or a spinoff investigation, based on evidence obtained in another investigation. As with other referrals, the director reviews these internal requests and decides whether to proceed with an investigation.

## Investigations and Prosecutions

Once the Unit opens a case, the director assigns the matter to a team consisting of at least one attorney and one investigator. The Unit's analysts may also assist with the investigation and conduct analysis of Medicaid claims data and other information relevant to the case. The director oversees all investigations through periodic supervisory reviews of the Unit's case files and employees' monthly case status reports. Upon completion of the investigation, the director determines whether to proceed with a criminal or civil prosecution or to close the case if there is insufficient evidence to support prosecution.

The Minnesota Unit has Statewide jurisdiction to investigate and prosecute all criminal and civil Medicaid fraud offenses.[17] The Unit may investigate patient abuse

[14] MDH is the State survey and certification agency, responsible for investigating maltreatment complaints in Minnesota health care facilities.

[15] Local adult protective teams are composed of local welfare agency staff, County Attorneys, local law enforcement, and other entities to assist with reporting adult patient abuse, neglect, and financial exploitation.

[16] MDH, the State Medicaid agency's licensing division, and local adult protective teams receive complaints of potential health care facility violations through a centralized system for reporting suspected patient abuse or neglect. When there is reason to believe a crime has been committed, these agencies must immediately notify law enforcement, such as the MFCU or the local police department, and they may coordinate with these law enforcement agencies throughout the investigation.

[17] Minnesota Statutes 2022 Section 256B.12 and Section 609.466 state that the Minnesota Office of the Attorney General and Minnesota's County Attorneys have primary authorities to prosecute Medicaid fraud cases.

and neglect cases, but requires a referral from the respective County Attorney in order to criminally prosecute these cases.[18, 19, 20] The Unit may also pursue civil cases in State court under the State's False Claims Act.[21]

## Minnesota Medicaid Program

The Minnesota Department of Human Services (DHS) administers the State Medicaid program. As of September 2022, the program served more than 1.3 million enrollees.[22] Approximately 88 percent of Minnesota's Medicaid enrollees received services through nine managed care organizations.[23] In FY 2022, Minnesota's Medicaid expenditures were approximately $16.9 billion.[24]

DHS's Surveillance & Integrity Review Section (DHS-SIRS) is responsible for Medicaid program integrity efforts. DHS-SIRS investigates Medicaid fraud complaints and, when appropriate, refers credible allegations to the MFCU.

## Prior OIG Report

OIG conducted a previous onsite review of the Minnesota Unit in 2013.[25] In that review, which covered FYs 2010–2012, OIG found that (1) the Unit's memorandum of understanding (MOU) with the State Medicaid agency did not reflect all current practices; (2) the Unit's training plan did not include a minimum number of training hours; (3) some Unit case files lacked documentation of supervisory reviews and

[18] Minnesota Statutes 2022 Section 626.557, subdivision 9b, states that law enforcement, which includes the MFCU, has primary authority to investigate all complaints of abuse or neglect of vulnerable adults.

[19] Minnesota Statutes 2022 Section 388.051. Minnesota's County Attorneys have primary authority to prosecute all cases.

[20] Minnesota Statute 2022 Section 8.01 sets forth that the Minnesota Office of the Attorney General must obtain a referral from the respective County Attorney to prosecute criminal cases where the Attorney General's Office does not have primary authority. The Governor may also request that the Attorney General prosecute cases, in which case the Attorney General may exercise the powers of a County Attorney.

[21] Minnesota Statutes 2022, Chapter 15C.

[22] CMS, *State Medicaid and CHIP Applications, Eligibility Determinations, and Enrollment Data*, September 2022. Accessed at https://data.medicaid.gov/dataset/6165f45b-ca93-5bb5-9d06-db29c692a360/data?conditions[0][property]=report_date&conditions[0][value]=2022-09-01&conditions[0][operator]=%3D&conditions[1][property]=preliminary_updated&conditions[1][value]=P&conditions[1][operator]=%3D&conditions[2][property]=state_abbreviation&conditions[2][value]=MN&conditions[2][operator]=%3D on January 27, 2023.

[23] Kaiser Family Foundation, *Share of Medicaid Population Covered under Different Delivery Systems*, July 2022. Accessed at https://www.kff.org/medicaid/state-indicator/share-of-medicaid-population-covered-under-different-delivery-systems/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D on January 30, 2023.

[24] OIG analysis of MFCUs' reporting of expenditures for FY 2022.

[25] OIG, *Minnesota State Medicaid Fraud Control Unit: 2013 Onsite Review*, OEI-06-13-00200, March 2014.

approvals; and (4) the Unit stored some case files in a location accessible to non-Unit staff.

OIG recommended that the Unit (1) update its MOU with the State Medicaid agency; (2) establish a minimum number of training hours for each professional discipline; (3) include appropriate documentation of periodic supervisory reviews and approval in all case files; and (4) store its case files in a secure location. On the basis of information received from the Unit, OIG considered the recommendations implemented as of December 2014. As we discuss further below, two issues identified in the prior OIG report regarding missing documentation of periodic supervisory reviews and approvals in case files and risk of potential unauthorized access to case files by non-Unit staff recurred in this inspection.

## Methodology

OIG conducted an onsite inspection of the Minnesota MFCU in October–November 2022. Our inspection covered the 3-year period of FYs 2020–2022. We based our inspection on an analysis of data and information from 7 sources: (1) Unit documentation; (2) financial documentation; (3) structured interviews with key stakeholders; (4) structured interviews with the Unit director and selected staff; (5) a review of a random sample of 86 case files from the Unit's 442 nonglobal case files that were open at any point during the review period; (6) a review of all convictions submitted to OIG for program exclusion and all adverse actions submitted to the National Practitioner Data Bank (NPDB) during the review period; and (7) an onsite review of Unit operations. See the Detailed Methodology on page 21.

In examining the Unit's operations and performance, we applied the published MFCU performance standards, but we did not assess adherence to every performance indicator for every standard.

## Standards

We conducted this study in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency. These inspections differ from other OIG evaluations in that they support OIG's direct administration of the MFCU grant program, but they are subject to the same internal quality controls as are other OIG evaluations, including internal and external peer review.

# PERFORMANCE ASSESSMENT

In assessing the performance and operations of the Minnesota Unit, we identified the Unit's case outcomes, evaluated whether the Unit complied with legal requirements, and assessed whether the Unit adhered to each of the 12 MFCU performance standards. We made four findings along with several observations regarding the Unit's performance and operations, and we made four recommendations for improvement.

## Case Outcomes

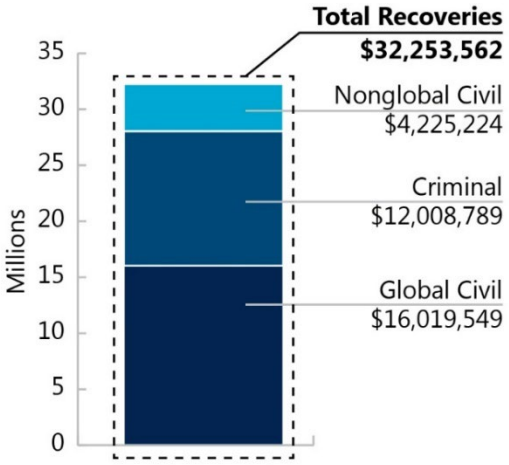
**Observation: The Unit reported 161 indictments; 150 convictions; and 28 civil settlements and judgments for FYs 2020–2022.**

Of the 150 convictions, 146 involved provider fraud and 4 involved patient abuse or neglect.[26, 27]


[26] During our 3-year review period, the Minnesota Unit had the highest number of fraud convictions and among the lowest number of patient abuse or neglect convictions compared to those of other similarly sized MFCUs. We compared the Minnesota Unit, which had 30 staff in FY 2022, to 14 similarly sized MFCUs, such as those with staff sizes that ranged from 22 to 38 employees. Although comparison across similarly sized MFCUs provides context for the case outcomes of a particular MFCU, many factors other than the size of a MFCU's staff can affect case outcomes.

[27] OIG provides information on MFCU operations and outcomes but does not direct or encourage MFCUs to investigate or prosecute a specific number of cases. MFCU investigators and prosecutors should apply professional judgment and discretion in determining what criminal and civil cases to pursue.

**Observation: The Unit reported total recoveries of nearly $32.3 million for FYs 2020–2022.**




Source: OIG Analysis of Unit statistical data, FYs 2020–2022.
Note: "Global" civil recoveries derive from civil settlements or judgments in global cases, which are cases that involve the U.S. Department of Justice and a group of State MFCUs and are facilitated by the National Association of Medicaid Fraud Control Units.

## Performance Standard 1: Compliance with Requirements

**A Unit conforms with all applicable statutes, regulations, and policy directives.**

**Observation: From the data we reviewed, the Minnesota MFCU complied with applicable laws, regulations, and policy transmittals.**

From the information we reviewed, we found that the Unit complied with applicable requirements.

## Performance Standard 2: Staffing

**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.**

**Finding: The director was the only supervisor in the Unit, which limited the oversight of Unit operations.**

Performance Standard 2(c) states that the Unit should employ an appropriate mix and number of professional staff that allows the Unit to effectively investigate and prosecute an appropriate volume of case referrals and workload for both Medicaid fraud and patient abuse and neglect. Further, 42 CFR § 1007.13(b)(3) requires the Unit to employ a senior investigator who is "capable of supervising and directing the investigative activities of the Unit." Though the Unit has a lead investigator capable of supervising staff, this position does not have supervisory authority. We found that the Unit's organizational structure of having only one supervisor created workload and oversight challenges for the Unit director.

As the sole supervisor, the Unit director was not only supervising all staff but also responsible for reviewing incoming referrals; overseeing investigations; building and maintaining relationships with stakeholders; and conducting outreach, among other responsibilities. The director told OIG that this structure impeded his ability to effectively review cases and that hiring a supervisory investigator could help with his workload and ensure more frequent oversight of cases. Several staff echoed the director and reported that having only one supervisor limited how often they could receive supervisory feedback on their cases. Staff believed that having an additional supervisor would make the Unit more efficient and provide more support for them.

At the time of this report, the Minnesota Unit was the only MFCU of its size that did not have a second-line supervisor, such as a deputy director or a chief investigator. In fact, most MFCUs of its size had more than one second-line supervisor. We found that the Minnesota MFCU followed the same supervisory structure as did most of the other divisions in the State Attorney General's Office.[28] Having only one supervisor in the Unit may have been sufficient at an earlier time, but as the Unit grew over the years to become the largest of all the Attorney General's divisions, the workload of the Unit director also increased. In OIG's judgment, the large workload of the director raises concern about the Unit's ability to ensure sufficient oversight of cases. One or more additional supervisors would alleviate the director's various responsibilities, increase oversight of the Unit, and enhance its operational efficiencies. Following the onsite visit, the Unit director agreed with OIG's concern about the lack of one or more second-line supervisors and reported requesting approval from the Attorney General's Office to add one second-line supervisor.

**Observation: The Unit experienced significant staff turnover but was able to maintain adequate staffing levels during our review period.**

We found that a total of 14 professional staff left the Unit during FYs 2020–2022. At the time of our onsite inspection, more than half (52 percent) of the Unit's 30 staff had worked in the Unit less than 2 years. See Appendix B for Unit turnover by staff discipline.

In interviews, Unit staff primarily attributed the high turnover to the Unit's low salaries and lack of training and advancement opportunities. Staff reported that the Unit's turnover negatively impacted its operations. One staff member reported that the high turnover limited the Unit's ability to adequately train and provide mentorship to new employees. Another staff member said it was challenging for new staff to learn the nuances of a case that they inherited when another employee left. Although the Unit experienced challenges, OIG did not observe any issues with case delays in our review of the Unit's case files.

[28] The Attorney General's Office requires its divisions to seek permission to re-classify any staff position as supervisory, and it recently approved one of its divisions to do so.

The Unit mitigated the impact of its high turnover by promptly filling its staff positions with qualified candidates.[29] At the time of our onsite visit, the Unit was nearly fully staffed with 30 of its 32 positions filled.

## Performance Standard 3: Policies and Procedures

**A Unit establishes written policies and procedures for its operations and ensures that staff are familiar with, and adhere to, policies and procedures.**

**Observation: The Unit maintained policies and procedures, and staff were familiar with them.**

The Unit maintained a policies and procedures manual, which it updated during our review period. Unit staff were familiar with Unit policies and procedures and could access the manual electronically on the Unit's shared drive.

## Performance Standard 4: Maintaining Adequate Referrals

**A Unit takes steps to maintain an adequate volume and quality of referrals from the State Medicaid agency and other sources.**

**Finding: Although the Unit took steps to coordinate with other State agencies, it received few referrals of patient abuse or neglect.**

According to Performance Standard 4(d), for States in which Units have original jurisdiction to investigate or prosecute patient abuse and neglect cases, the Unit should take steps to ensure that pertinent agencies refer such cases to the Unit. While the Minnesota Unit requires a referral from the County Attorneys to prosecute patient abuse and neglect cases, it may investigate all such referrals. However, we found that the Unit received only six referrals of patient abuse or neglect from its referral sources during FYs 2020–2022, which amounted to 1 percent of the Unit's total referrals (see Appendix A for a list of the patient abuse and neglect referrals by source).[30] This number of patient abuse and neglect referrals is particularly low given that Minnesota agencies and organizations responsible for initially reviewing these

[29] We found that investigators had experience in law enforcement, the nurse investigator had worked as a nurse, and several other staff had previously worked for MFCU stakeholders (e.g., a managed care organization, the Federal Bureau of Investigation, and OIG).

[30] The Unit's six referrals of patient abuse or neglect were from other law enforcement agencies and local prosecutors. On the basis of data available from the MFCU's Quarterly Statistical Reports and Annual Statistical Reports, OIG found that the Unit received only one referral of patient abuse or neglect from MDH.

complaints received an average of 75,000 patient abuse and neglect complaints during each year of our review period.[31]

Although the Unit reported taking steps to increase referrals of patient abuse and neglect, those referrals remained low during our review period. For example, the Unit reported conducting outreach to the Minnesota Department of Health (MDH), local law enforcement, local adult protective teams, and County Attorneys during our review period.[32] However, OIG's case file review identified that the Unit received only one referral of patient abuse or neglect from MDH during our review period. MDH officials explained that their process was to triage referrals and to investigate patient abuse and neglect complaints themselves. MDH would then send completed patient abuse and neglect investigations directly to the County Attorneys for prosecution and share the list of investigations with the Unit on a weekly basis.

MDH, DHS, and local adult protective teams receive all State health care facility patient abuse and neglect complaints and should be significant referral sources for the Unit for cases that have criminal potential. One MDH official found it challenging for the agency to investigate the high volume of patient abuse and neglect complaints, and MDH and Unit officials expressed interest in establishing a partnership regarding referrals. After our onsite visit, the Unit met with MDH to discuss how best to coordinate on patient abuse or neglect referrals.

**Observation: Although nearly all referrals from the State Medicaid agency involved personal care services, the Unit took steps to diversify its fraud referrals.**

During FYs 2020–2022, the MFCU received a total of 598 fraud referrals and nearly half of those (287 referrals) were from DHS-SIRS, the State Medicaid agency's program integrity unit. While the number of referrals appears high, the MFCU reported that nearly all fraud referrals from DHS-SIRS involved personal care services (PCS).[33] See Appendix A for a full list of MFCU referrals by source.

A DHS-SIRS official commented that the agency was "inundated" with a large number of PCS complaints from PCS agencies and private citizens, which resulted in a skewed representation of PCS in the agency's referrals. In our review of the Unit's data, we

[31] The average number of referrals is based on Minnesota Adult Abuse Reporting Center (MAARC) data from calendar years 2019–2022. The three agencies and organizations responsible for reviewing these complaints are MDH, DHS, and local adult protective teams. Minnesota Department of Human Services, *Vulnerable Adult Protection Dashboard*, 2019–2022 MAARC Report. Accessed at https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/adult-protection/dashboard.jsp on June 21, 2023.

[32] OIG could not verify the Unit's reported outreach efforts to MDH.

[33] A common type of fraud scenario involving PCS attendants is a "conflict case," in which a PCS attendant claims to have provided services, such as meal preparation or light housework, to a Medicaid beneficiary during the same hours that the PCS attendant worked at another place of employment (e.g., doctor's office, convenience store). OIG, *MFCUs: Investigation and Prosecution of Fraud and Beneficiary Abuse in Medicaid Personal Care Services*, OEI-12-16-00500, December 2017. Accessed at https://www.oig.hhs.gov/oei/reports/oei-12-16-00500.pdf on February 15, 2023.

found that the number of PCS referrals was also high in the years prior to our review period, indicating that this has been a historical issue.

In accordance with Performance Standard 4(b), we found the Unit provided feedback to DHS-SIRS in its bimonthly meetings, during which the Unit discussed the lack of diversity in the provider types represented in the fraud referrals from DHS-SIRS.[34] To identify additional referrals and strengthen program integrity efforts, the Unit recommended that DHS-SIRS conduct its own data mining.[35] In 2022, DHS-SIRS had not yet begun conducting its own data mining, and the Unit expressed interest in requesting a waiver from OIG to conduct its own data mining.[36]

Additionally, in accordance with Performance Standard 4(a), the Unit took steps to diversify referrals from managed care organizations (MCOs) during our review period. For example, the Unit implemented quarterly meetings and conducted multiple outreach presentations to MCOs, which the Unit director reported led to additional fraud referrals.

OIG found that the Unit's ongoing efforts to encourage a diversity of strong referrals from both DHS-SIRS and MCOs have the potential to improve program integrity protections among the many provider types who serve program beneficiaries.

## Performance Standard 5: Maintaining Continuous Case Flow

### 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.

**Observation: The Unit took steps to maintain a continuous case flow and to complete cases within appropriate timeframes.**

We found that, consistent with Performance Standard 5, the Unit took steps to maintain a continuous flow for cases worked and completed most of its cases in a timely manner. For the cases worked, the director monitored staff's monthly case status reports, which staff prepared for both the Unit director and the Deputy Attorney General who oversees the Unit.[37] The Unit also held biweekly meetings with all staff and quarterly meetings with the investigators and attorneys to discuss the Unit's casework. Although the Unit maintained a continuous case flow, several staff expressed that they would benefit from more one-on-one meetings with the director.

[34] Performance Standard 4(b) states that the Unit should provide periodic feedback to the State Medicaid agency and other referral sources on the adequacy of both the volume and quality of its referrals.

[35] Data mining is the practice of electronically uncovering patterns and relationships within Medicaid data to identify aberrant utilization or billing, or other practices that are potentially fraudulent.

[36] A data mining waiver permits Federal financial participation in costs of data mining if certain criteria are satisfied (see 42 CFR § 1007.20).

[37] Since Performance Standard 7(a) states that supervisory reviews should be noted in case files, OIG did not review monthly status reports as the Unit did not document them in its case files. For information about periodic supervisory reviews, see Performance Standard 7, second finding.

## Performance Standard 6: Case Mix

**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.**

**Observation: The Unit's caseload consisted mostly of fraud cases, and the Unit worked a disproportionate number of fraud cases involving personal care services.**

Performance Standard 6(c) states that the Unit should allocate its resources among provider types on the basis of levels of Medicaid expenditures or other risk factors. Of the Unit's 506 cases that were open during FYs 2020–2022, 96 percent (486 cases) involved provider fraud and 4 percent (20 cases) involved patient abuse or neglect. Although more than half of the Unit's fraud cases involved PCS during our review period, the Unit's fraud cases covered 31 different provider types, including transportation and mental health facilities. The Unit balanced its case mix by conducting outreach and meeting periodically with its main fraud referral sources to encourage an examination of potentially fraudulent claims across a wider range of provider types (see Performance Standard 4, observation).

We observed that, while the Unit investigated a very large number of PCS cases, it also had a strategy to focus on the PCS agencies, which were responsible for many of the individual incidents of fraud by PCS attendants. Nearly 25 percent of the Unit's PCS investigations during our review period were PCS agency cases, with some identified as "spinoffs" from individual PCS attendant fraud complaints. One investigator explained that PCS agencies are often connected to other agencies like a "spider web" of agencies committing the same types of fraud. As a result of these investigations, the Unit successfully prosecuted multiple large PCS agency fraud schemes during our review period.[38] We observed that this focus on PCS agencies not only maximized the Unit's impact and the deterrent value of its work but also provided Unit staff opportunities to gain experience and investigate larger, more complex fraud cases.

## Performance Standard 7: Maintaining Case Information

**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.**

**Finding: The Unit lacked a case management system that allowed efficient and secure access to case information and case outcomes data.**

Performance Standard 7(e) states that the Unit should have an information management system that manages and tracks case information from initiation to resolution. We found that the Unit lacked an electronic case management system with functionality to effectively organize its case data and track case progression.

[38] One of the Unit's PCS agency cases resulted in the largest Medicaid fraud recovery in the Attorney General's history ($7.7 million), and two other large PCS agency cases recovered more than $4.8 million for the Medicaid program.

The Unit director explained that the State Attorney General's Office procured a data storage system for each of its divisions, including the Unit, but the system was not designed to be used as a case management system. Instead, it was intended to store large datasets. The Unit mitigated the lack of an effective case management system by using its own electronic file structure on the Unit's network drive; however, we found that it was insufficient and did not meet the Unit's needs.

Unit staff reported that the electronic file structure primarily served as a document repository and did not allow efficient access to case information and other pertinent data. We also observed these inefficiencies in our review of the Unit's case files. We found that the electronic file structure lacked basic features, such as the ability to search closed cases and uniformity in file names and folder structures. We also found that it lacked the ability to generate case outcomes data and other case status information that could aid the Unit director in overseeing and tracking cases.

In our interviews, the director and staff remarked on the difficulties in locating documents and quickly tracking the status of cases in the electronic file structure. For example, one investigator expressed frustration with having to open every file individually in the case folder structure to determine which tasks had been completed. Other staff raised concerns that the electronic file structure sometimes inadvertently deleted files and updates made to the folder structure. In OIG's judgment, these inefficiencies may be particularly burdensome for new employees learning to navigate case files inherited from a previous investigator. Following our onsite visit, the director reported that the Attorney General's Office approved a new case management system, which the Unit was reviewing to ensure that the system meets its needs.

While onsite, we also found an issue of unauthorized access to information in the Unit's electronic file structure.[39] We identified nine staff in other divisions of the Attorney General's Office who had access to the Unit's network drive and its case files.[40] The Attorney General's Office's Information Technology staff rectified the security access issue within 48 hours after our onsite visit. In OIG's opinion, if the Unit obtained its own case management system, Unit officials could better ensure access control for its case files and other sensitive data.

**Finding: The Unit did not consistently conduct periodic supervisory reviews or document supervisory approvals in its case files during our review period.**

According to Performance Standards 7(a) and 5(b), supervisors should periodically review cases and approve the opening and closing of all investigations, as well as including documentation in the case file. The Unit director reported that the Unit's practice was to conduct supervisory reviews at least every 6 months during most of our review period (October 2019 to July 2022). However, in August 2022, the Unit

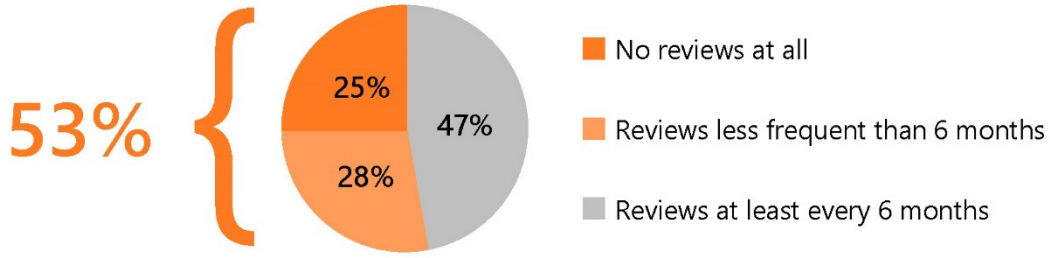
[39] OIG's 2013 report also identified a risk of potential unauthorized access, which the Unit rectified by moving paper case files to a locked storage room accessible only to Unit staff.

[40] The nine staff consisted of four former Unit staff who retained access to Unit files after transferring to another division, and five non-Unit staff who were granted access to assist with various tasks.

updated this practice to conduct supervisory reviews "periodically" in its policies and procedures manual, which did not specify a required frequency for these reviews.[41, 42] The Unit director explained that he made this change to allow flexibility in how often he would review different types of cases. For example, global civil cases did not need to be reviewed as frequently as the Unit's other cases.

We found that 53 percent of the Unit's case files during FYs 2020–2022 did not have documentation of periodic supervisory reviews at least every 6 months. Of those case files, 25 percent did not contain documentation of any supervisory reviews at all (see Exhibit 1). In our interviews, staff confirmed that the periodic supervisory reviews were conducted inconsistently, as we identified in the case files. See Appendix C-1 for the point estimates and confidence intervals of our case file reviews.

**Exhibit 1: More than half of the Unit's case files were missing documentation of periodic supervisory reviews.**




Source: OIG analysis of Unit case files, FYs 2020–2022.

We also found that many case files were missing documentation of supervisory approvals to open and close cases. Specifically, case files lacked documentation of supervisory approval for 11 percent of case openings and 19 percent of case closings.[43] However, we did not identify any impact on the Unit's case development from the missing documentation. See Appendix C-2 for the point estimates and confidence intervals of our case file reviews.

The director explained that his workload as the sole supervisor for 29 Unit staff impeded his ability to consistently review all cases, which contributed to the

[41] For our review of the Unit's case files, we used "every 6 months" as the minimum frequency at which supervisory reviews should occur.

[42] In addition to supervisory reviews, the director reported, he reviewed case status reports prepared monthly by Unit staff to monitor case progression. We did not include these report reviews as part of our assessment since they were not noted in the Unit's case files, and therefore did not meet the guidelines outlined in Performance Standard 7.

[43] The previous OIG report also found inconsistent documentation in the Unit's applicable case files—58 percent were missing documentation of periodic supervisory reviews, 19 percent were missing documentation of supervisory approval to open, and 23 percent were missing supervisory approval to close. OIG, *Minnesota State Medicaid Fraud Control Unit: 2013 Onsite Review*, OEI-06-13-00200, March 2014.

inconsistent documentation in the case files. Staff also attributed the inconsistent frequency of supervisory reviews and missing documentation of supervisory approvals in the case files to the Unit's lack of second-line supervisors (see Performance Standard 2, finding). In addition, our review of the case files found that the Unit's limited case management system further exacerbated the documentation issues.

## Performance Standard 8: Cooperation with Federal Authorities on Fraud Cases

**A Unit cooperates with OIG and other Federal agencies in the investigation and prosecution of Medicaid and other health care fraud.**

**Observation: The Unit maintained a positive working relationship with Federal law enforcement partners, including OIG and the U.S. Attorney's Office.**

We found that the Unit maintained a strong partnership with OIG's Office of Investigations (OI) and jointly investigated a total of 18 cases during the review period. The Unit and OI leadership communicated monthly, and Unit investigators and OI agents communicated daily to discuss joint cases. OI leadership characterized the Unit as a "strong team" and their working relationship as a "great partnership."

We observed a strong working relationship between the MFCU and the civil division of the U.S. Attorney's Office. The Assistant U.S. Attorney who served as the civil health care fraud coordinator attributed the strong working relationship to open communication and good coordination between the agencies. The U.S. Attorney's Office led the regional Health Care Task Force, which the MFCU and OI attended, among other Federal and State agencies.[44] Since our onsite visit, the MFCU has continued to meet regularly with OI and the U.S. Attorney's Office.

**Observation: The Unit reported nearly all convictions and adverse actions to Federal partners within the appropriate timeframes.**

During the 3-year review period, the Unit submitted nearly all (99 percent) of its 150 convictions to OIG within 30 days of sentencing, as required by Federal regulations and outlined in Performance Standard 8(f).[45] The Unit also submitted nearly all (97 percent) of its 146 adverse actions to the NPDB within 30 days of the final adverse action, as required by Federal regulations and consistent with

[44] The COVID-19 health emergency paused the U.S. Attorney's Office's quarterly task force meetings.

[45] 42 CFR § 1007.11(g) requires the Unit to transmit information on convictions within 30 days of sentencing, or as soon as practicable if the Unit encounters delays in receiving the necessary information from the court.

Performance Standard 8(g).[46, 47] In addition to reporting its own convictions to OIG, the Unit reported convictions of patient abuse and neglect obtained by local authorities for possible program exclusion.

## Performance Standard 9: Program Recommendations

**A Unit makes statutory or programmatic recommendations, when warranted, to the State government.**

**Observation: The Unit made program recommendations to the State Medicaid agency and a statutory recommendation to the State legislature during our review period.**

Performance Standard 9 states that the Unit should make program or statutory recommendations, when warranted, to the State government. The Unit made informal program recommendations to DHS and one statutory recommendation to the Minnesota legislature during the review period. For its statutory recommendation, the Unit worked with DHS to draft a proposal for anti-kickback legislation; however, the Minnesota legislature did not pass the bill for the 2020 session. The proposed legislation would allow the Unit to prosecute providers in State court for paying illegal kickbacks; such prosecution is currently only possible at the Federal level in the State of Minnesota. The Unit reported that it plans to re-propose this legislation in 2023.

## Performance Standard 10: Agreement with Medicaid Agency

**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.**

**Observation: The Unit's MOU with the State Medicaid agency reflected current practice, policy, and legal requirements.**

The MOU between the Unit and DHS was amended in April 2022 and reflected current practice, policy, and legal requirements.

[46] 45 CFR § 60.5. Examples of adverse actions include, but are not limited to, health care-related criminal convictions and civil judgments (but not civil settlements), and program exclusions. See SSA § 1128E(a) and (g)(1).

[47] 45 CFR § 60.1. The NPDB is intended to restrict the ability of physicians, dentists, and other health care practitioners to move from State to State without disclosure or discovery of previous medical malpractice and adverse actions. NPDB, About Us. Accessed at https://www.npdb.hrsa.gov/topNavigation/aboutUs.jsp on April 3, 2023.

## Performance Standard 11: Fiscal Control

### A Unit exercises proper fiscal control over its resources.

**Observation: From our limited review, we identified no significant deficiencies in the Unit's fiscal control of its resources.**

From the Unit's responses to a detailed fiscal controls questionnaire and from follow-up with fiscal staff and Unit officials, we identified no significant issues related to the Unit's budget process, accounting system, cash management, procurement, property, or personnel. In our inventory review, we located 30 of the 30 sampled inventory items.

## Performance Standard 12: Training

### A Unit conducts training that aids in the mission of the Unit.

**Observation: The Unit maintained a training plan for each professional discipline, and Unit staff met training requirements.**

Performance Standards 12(a) and 12(b) state that the Unit should maintain a training plan for each professional discipline and that the Unit should ensure that professional staff comply with the training plans and maintain records of this compliance. We found that the Unit maintained a training plan that included annual training hours for professional staff and that staff generally met those requirements. Professional staff attended several trainings that aided in the Unit's mission, including training conferences by the National Association of Medicaid Fraud Control Units.

In addition to annual training requirements, new Unit investigators received 4 weeks of formal orientation training, which included 2 weeks of lecture-based guidance and procedures and 2 weeks of on-the-job training in the field with an experienced investigator. While staff recognized the value of the onboarding training, some staff expressed that new staff could benefit from more training. During the inspection, OIG provided technical assistance to further strengthen the Unit's onboarding training.

# CONCLUSION AND RECOMMENDATIONS

The Minnesota MFCU reported strong case outcomes, with 161 indictments; 150 convictions; 28 civil settlements and judgments; and nearly $32.3 million in recoveries for FYs 2020–2022. From the information we reviewed, we observed that the Unit maintained strong working relationships and investigated cases jointly with Federal partners. The Unit also reported nearly all convictions and adverse actions to Federal partners within the appropriate timeframes, including cases of patient abuse or neglect that were investigated and prosecuted by local authorities. However, we identified four areas in which the Unit should improve its adherence to performance standards or program requirements, and for which we are issuing recommendations.

First, we found that the director was the only supervisor in the Unit, which limited the oversight of Unit operations. Second, we found that although the Unit took steps to coordinate with other State agencies, it received few referrals of patient abuse or neglect. Third, we found that the Unit lacked a case management system that allowed efficient and secure access to case information and case outcomes data, which posed challenges for locating documents and tracking case statuses. Finally, we found that the Unit did not consistently conduct periodic supervisory reviews or document supervisory approvals in the case files.

To address the findings identified in this report, we made the following recommendations to the Minnesota Unit.

## We recommend that the Minnesota Unit:

## Continue efforts to hire a second-line supervisor and assess whether additional supervisors are warranted to meet the Unit's oversight needs

The Unit should continue pursuing approval from the Attorney General's Office to hire a second-line supervisor. The Unit should also continue to assess its oversight needs and the potential benefits of additional second-line supervisors, such as a chief investigator or deputy director, to the Unit. If warranted by the assessment, the Unit should further increase supervisory support.

## Build upon its efforts to increase referrals of patient abuse or neglect

To ensure that the Unit receives an adequate number of patient abuse or neglect referrals, the Unit should increase its coordination and outreach with potential referral sources of patient abuse and neglect complaints. For example, the Unit could

establish a process with referral sources that receive patient abuse and neglect complaints (e.g., MDH, DHS, and local adult protective teams) for how to best send referrals to the Unit. Further, the Unit should conduct additional outreach to build upon its relationships with other potential referral sources for patient abuse and neglect complaints. The Unit could consider involving its nurse investigator in the outreach efforts to educate referral sources on the Unit's authority to investigate patient abuse and neglect.

## Implement a comprehensive case management system that allows for efficient access to case documents and information

The Unit reported that the Minnesota Office of the Attorney General approved its request to procure a new case management system. When selecting the new system, the Unit should ensure that the system allows for efficient access to case information and case outcomes data. The Unit should also ensure that the system meets the functional needs for Unit investigations and has the ability to protect and store case information and other pertinent data in a secure, logical, and user-friendly manner. While awaiting implementation of a new case management system, the Unit should take steps to mitigate the shortcomings of its electronic file structure. For example, the Unit could implement a uniform folder structure and file names, which would make it easier to locate documents.

## Take steps to ensure that periodic supervisory reviews are conducted on a consistent basis and that case files include documentation of supervisory approvals

The Unit should specify a frequency for conducting periodic supervisory reviews in its policies and procedures manual and take steps to ensure adherence to the policy. The Unit should also take steps to ensure that case files include documentation of supervisory approvals to open and close cases. The Unit could implement automatic reminders to ensure that reviews are conducted and that case files are checked for completeness. As stated in the first recommendation, OIG encourages the Unit to assess whether additional supervisory support is needed, which could help the Unit ensure consistency of supervisory reviews and approvals.

# UNIT COMMENTS AND OIG RESPONSE

The Minnesota MFCU concurred with all four of our recommendations.

First, the Unit concurred with our recommendation to continue efforts to hire a second-line supervisor and assess whether additional supervisors are warranted to meet the Unit's oversight needs. The Unit reported that it has drafted a position description for a "managing investigator" and intends to publicly post the position after receiving approval from the State Attorney General's Office.

Second, the Unit concurred with our recommendation to build upon its efforts to increase referrals of patient abuse and neglect. The Unit reported that it intends to continue its outreach with potential sources of patient abuse and neglect referrals, including MDH, DHS, local law enforcement, and County Attorneys. The Unit also noted that, once hired, its managing investigator will serve as the primary point of contact for outreach with law enforcement organizations and State agencies. Further, the Unit reported that it is considering pursuing legislation to expand its prosecutorial authority for patient abuse and neglect cases.

Third, the Unit concurred with our recommendation to implement a comprehensive case management system that allows for efficient access to case documents and information. The Unit reported that following our onsite review, the State Attorney General's Office approved a contract with a vendor that will provide a case management system, which the Unit expects to implement in 2024.

Fourth, the Unit concurred with our recommendation to take steps to ensure that periodic supervisory reviews are conducted on a consistent basis and that case files include documentation of supervisory approvals. The Unit reported that, once hired, its managing investigator will share the responsibility for conducting periodic supervisory reviews with the Unit director.

We appreciate the steps the Unit has taken and plans to take to address the recommendations in the report. We believe that these steps will improve the Unit's adherence to performance standards and program requirements and will strengthen its operations.

For the full text of the Unit's comments, see Appendix D.

# DETAILED METHODOLOGY

## Data Collection and Analysis

We collected and analyzed data from the seven sources described below to identify any opportunities for improvement and instances in which the Unit did not adhere to the MFCU performance standards or was not operating in accordance with laws, regulations, or policy transmittals. We also used the data sources to make observations about the Unit's case outcomes as well as the Unit's operations and practices concerning the performance standards.

### Review of Unit Documentation

Before the onsite inspection, we reviewed the recertification materials for FYs 2020-2022, including (1) the Unit's recertification questionnaires, (2) the Unit's MOU with DHS-SIRS, (3) the DHS-SIRS program integrity unit questionnaire, and (4) the OIG Special Agent in Charge questionnaires. We also reviewed the Unit's policies and procedures manual and the Unit's self-reported case outcomes and referrals included in its annual statistical reports for FYs 2020–2022. Additionally, we examined the recommendations from the 2013 OIG onsite inspection report and the Unit's implementation of those recommendations.

### Review of Unit Financial Documentation

We conducted a limited review of the Unit's control over its fiscal resources. Before the onsite inspection, we analyzed the Unit's responses to a questionnaire about internal controls and conducted a desk review of the Unit's quarterly financial reports. We followed up with the Minnesota Office of the Attorney General to clarify issues identified in the questionnaire about internal controls. We also selected a purposive sample of 30 items from the Unit's inventory list of 210 items maintained by the Unit and verified those items onsite.

### Interviews with Key Stakeholders

In October 2022, we interviewed key stakeholders, including officials in DHS-SIRS, MDH, OI, and the U.S. Attorney's Office. We focused these interviews on the Unit's relationship and interaction with the stakeholders, as well as opportunities for improvement. We used the information collected from these interviews to develop subsequent interview questions for Unit management and staff.

## Onsite Interviews with Unit Management and Selected Staff

We conducted structured interviews with the Unit director and selected staff in October–November 2022. Among the selected Unit staff were five investigators, two attorneys, one auditor, and one nurse investigator. In addition, we interviewed the Unit director's supervisor, the Deputy Attorney General. We asked these individuals questions related to (1) Unit 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; (4) clarification regarding information obtained from other data sources; and (5) the Unit's training and technical assistance needs.

## Onsite Review of Case Files

To craft a sampling frame, we requested that the Unit provide us with a list of cases that were open at any time during FYs 2020–2022 and include the status of each case; whether the case was criminal, civil, or global; and the dates on which the case was opened and closed, if applicable. The total number of cases was 506.

We excluded all global cases from our review of the Unit's case files because global cases are civil false claims actions that typically involve multiple agencies, such as the U.S. Department of Justice and a group of State MFCUs. We excluded 64 global cases, leaving 442 case files.

We then selected a simple random sample of 86 cases from the population of 442 cases. This sample allowed us to make estimates of the overall percentage of case files with various characteristics with absolute precision of no more than +/- 10 percent at the 95-percent confidence level.

We reviewed the 86 case files for adherence to the relevant performance standards and compliance with statutes, regulations, and policy transmittals. During our review of the sampled case files, we consulted MFCU staff to address any apparent issues with individual case files, such as missing documentation.

## Review of Unit Submissions to OIG and the National Practitioner Data Bank

We also reviewed all 150 convictions submitted to OIG for program exclusion and all 146 adverse actions submitted to the NPDB during our review period. We reviewed whether the Unit submitted information on all sentenced individuals and entities to OIG for program exclusion and all adverse actions to the NPDB for FYs 2020–2022. We also assessed the timeliness of the submissions to OIG and the NPDB.

## Onsite Review of Unit Operations

During the onsite inspection, we observed the workspace and operations of the Unit's office in St. Paul. We observed the Unit's offices and meeting spaces; security of data and case files; location of select equipment; and the general functioning of the Unit.

# APPENDICES

## Appendix A: Unit Referrals by Source for FYs 2020–2022

| Referral Source | FY 2020 | | FY 2021 | | FY 2022 | | 3-Year Total | | |
|---|---|---|---|---|---|---|---|---|---|
| | Fraud | Abuse or Neglect | Fraud | Abuse or Neglect | Fraud | Abuse or Neglect | Fraud | Abuse or Neglect | Total |
| Adult Protective Services | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Anonymous | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| HHS-OIG | 2 | 0 | 0 | 0 | 2 | 0 | 4 | 0 | 4 |
| Law Enforcement—Other | 2 | 2 | 1 | 0 | 2* | 0 | 5 | 2 | 7 |
| Licensing Board | 0 | 0 | 2 | 0 | 2 | 0 | 4 | 0 | 4 |
| Local Prosecutor | 1 | 0 | 2 | 1 | 0 | 1 | 3 | 2 | 5 |
| Long-Term Care Ombudsman | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Managed Care Organizations | 25 | 0 | 21 | 0 | 35 | 0 | 81 | 0 | 81 |
| Medicaid Agency—Other | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 |
| Medicaid Agency—PI/SURS | 89 | 0 | 98 | 0 | 100 | 0 | 287 | 0 | 287 |
| Private Citizen | 47 | 0 | 30 | 0 | 34 | 0 | 111 | 0 | 111 |
| Private Health Insurer | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Provider | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Provider Association | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| State Agency—Other | 0 | 0 | 2 | 0 | 1 | 0 | 3 | 0 | 3 |
| State Survey and Certification Agency | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 32 | 2 | 55 | 0 | 12 | 0 | 99 | 2 | 101 |
| **Sub-Total** | **198** | **4** | **211** | **1** | **189** | **1** | **598** | **6** | **604** |
| **Total** | **202** | | **212** | | **190** | | **604** | | |

Source: OIG Analysis of Unit Annual Statistical Reports for FYs 2020–2022.
* Based on OIG's analysis of a random sample of Unit case files, one of these referrals was sent jointly with the State Survey and Certification agency.

# Appendix B: Unit Turnover by Staff Discipline during FYs 2020–2022

| Staff Discipline | Staff Employed at Start of FY 2020 | Staff Employed at End of FY 2022 | New Staff Hired during FYs 2020–2022 | Staff Departures during FYs 2020–2022 | Average Staff Turnover Rate during FYs 2020–2022 |
|---|---|---|---|---|---|
| All Professional Disciplines | 20 | 23 | 17 | 14 | **22.8%** |
| Investigator | 13 | 13 | 10 | 10 | **27.9%** |
| Attorney | 5 | 7 | 5 | 3 | **17.9%** |
| Auditor/Analyst | 2 | 3 | 2 | 1 | **11.1%** |

Source: OIG analysis of Unit-provided documentation, FYs 2020–2022.

# Appendix C: Point Estimates and 95-Percent Confidence Intervals of Case File Reviews

### Exhibit C-1: Estimates for Periodic Supervisory Reviews

| Estimate Description | Sample Size | Point Estimate | 95-Percent Confidence Interval | |
|---|---|---|---|---|
| | | | Lower | Upper |
| Percentage of cases open at least 6 months | 86 | 83.7% | 75.1% | 90.3% |
| Percentage of cases open at least 6 months that did not have periodic supervisory reviews at least every 6 months; of these: | 72 | 52.8% | 41.4% | 63.8% |
| ↳ Percentage of cases with periodic supervisory reviews less frequent than every 6 months | 72 | 27.8% | 18.6% | 38.7% |
| ↳ Percentage of cases with no periodic supervisory reviews | 72 | 25.0% | 16.1% | 35.7% |

Source: OIG analysis of Minnesota MFCU case files, FYs 2020–2022.

### Exhibit C-2: Estimates for Case Documentation

| Estimate Description | Sample Size | Point Estimate | 95-Percent Confidence Interval | |
|---|---|---|---|---|
| | | | Lower | Upper |
| Percentage of all cases closed at the time of our review | 86 | 61.6% | 51.6% | 71.0% |
| Percentage of all cases that did not have supervisory approval to open the referral | 86 | 10.5% | 5.2% | 18.1% |
| Percentage of closed cases that did not have supervisory approval to close | 52 | 19.2% | 10.0% | 31.9% |

Source: OIG analysis of Minnesota MFCU case files, FYs 2020–2022.

# Appendix D: Unit Comments

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August 29, 2023

Ms. Ann Maxwell
Deputy Inspector General for Evaluation and Inspections
U.S. Department of Health and Human Services Office of Inspector General
Room 5660, Cohen Building
330 Independence Avenue, SW
Washington, DC 20201

**Re:** ***OIG Audit of Minnesota MFCU***

Dear Ms. Maxwell:

Thank you for providing us with your draft report of the Minnesota Medicaid Fraud Control Unit's (MFCU) 2022 Inspection. We have reviewed the report and your recommendations.

The Minnesota MFCU concurs in all of OIG's findings and recommendations. It has the following comments on OIG's findings:

**Recommendation # 1: Continue efforts to hire a second-line supervisor and assess whether additional supervisors are warranted to meet the Unit's oversight needs.**

The MFCU fully agrees with the need for a supervising investigator. It agrees with OIG that the current structure of the Unit – where the Director serves as the sole supervisor – is no longer sufficient given the Unit's growth in size.

Since OIG's onsite, the MFCU Director has drafted a position description for a managing investigator. Classification of the position and the final description is under review by the parent agency's Human Resources Department. The MFCU intends to publicly post for the position shortly after formal classification concludes.

The MFCU appreciates the time OIG took identifying the issue, evaluating the MFCU in comparison to other Units, and the recommendation OIG provided.

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**Recommendation #2: Build upon efforts to increase referrals of patient abuse and neglect.**

The MFCU agrees that its current referrals for abuse and neglect are insufficient.

The MFCU intends to continue its outreach with other organizations that may refer the case to the MFCU. This includes, but is not limited to, MDH, DHS, local law enforcement, and county attorneys. It believes that outreach with county attorneys will be best served through the Director's efforts at the Minnesota County Attorney's Association and other prosecutorial organizations. Once a managing investigator is hired, the MFCU intends to have the managing investigator be the primary point of contact for outreach with law enforcement organizations and State agencies, with the Director also participating in outreach with these organizations as necessary.

The MFCU has also begun preliminary internal discussions about potentially obtaining greater authority, through Legislation granting it original jurisdiction, to prosecute abuse and neglect when the abuse and neglect arises out of the same set of circumstances as Medicaid fraud.

**Recommendation #3: Implement a comprehensive case management system that allows for efficient access to case documents and information.**

The MFCU fully agrees with OIG about the necessity of a case management system. It notes that, following OIG's onsite, its parent agency, the Attorney General's office, has agreed on a contract with a vendor to supply a case management system.

The Attorney General's Office eDiscovery team has completed the information gathering phase and has entered the development stage. The case management system is anticipated to be implemented in 2024.

**Recommendation #4: Take steps to ensure that periodic supervisory reviews are conducted on a consistent basis and that case files include documentation of supervisory approvals.**

The MFCU concurs with OIG's finding. It agrees that its files do not contain sufficient documentation of supervisory file reviews.

It notes, however, that updates on each case file are provided monthly, and in writing, by each investigator in the monthly Status Reports mandated by the MFCU's parent agency, the Attorney General's office. The MFCU Director reviews each case update every month. While the MFCU agrees that this does not constitute a Supervisory Review within the meaning covered by Performance Standard 7, it believes noting this in the report will demonstrate that it does regularly ensure that case files are receiving sufficient attention and moving forward without inexplicable delay.

Once the managing investigator is hired, the MFCU intends to split supervisory review responsibilities between the Director and managing investigator. The MFCU believes that the

hiring of a managing investigator will also free up more time for the Director to conduct the appropriate reviews.

**Summary Comments:**

The Minnesota MFCU appreciates the time and effort that OIG undertook to conduct its review, write its report, and provide its technical assistance memorandum. It values how much OIG's report highlights the strong case work and results the Minnesota MFCU has generated during the review period. The MFCU looks forward to continuing to work with OIG to implement its recommendations and ensure that the integrity of Minnesota's Medicaid program remains protected and that those who defraud the program or harm its residents are held accountable.

Sincerely,

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# ACKNOWLEDGMENTS AND CONTACT

## Acknowledgments

Keith Peters of the Medicaid Fraud Policy and Oversight Division served as the team leader for this study, and Kristen Calille served as the lead analyst. Others in the Office of Evaluation and Inspections who conducted the study include Kaisee Riddell and Jordan Swoyer. Office of Evaluation and Inspections headquarters staff who provided support include Robert Gibbons and Sara Swisher.

We would also like to acknowledge contributions of two special agents from the Office of Investigations. Finally, Mark Collins of the Nebraska MFCU served as a peer reviewer.

This report was prepared under the direction of Ruth Ann Dorrill, Regional Inspector General for Evaluation and Inspections in the Dallas regional office, and Petra Nealy, Deputy Regional Inspector General, as well as in consultation with Richard Stern, Director of the Medicaid Fraud Policy and Oversight Division.

## Contact

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