



The Office of the
Minnesota Attorney General
helping people afford their lives and live with dignity, safety, and respect

Minnesota Medicaid Fraud Control Unit

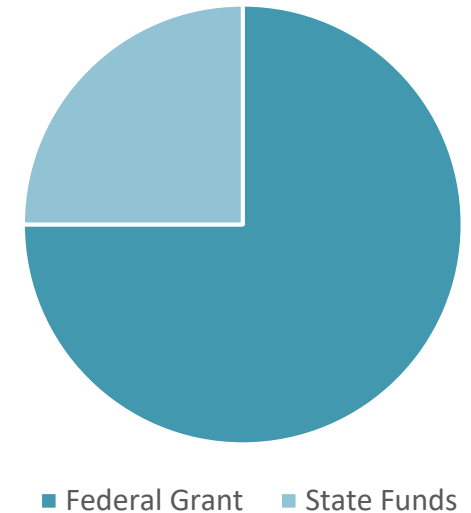
Nick Wanka, MFCU Director

What Is A MFCU?

- Medicaid Fraud Control Unit housed in Minnesota AG's office.
 - All 50 States have MFCUs, most of which are in AGOs, as do DC, Puerto Rico, and the U.S. Virgin Islands.
- Law enforcement entity.
 - MFCUs investigate and prosecute their own criminal and civil cases.
 - Minnesota MFCU staffing includes:
 - 7 attorneys.
 - 17 investigators
 - Supervising Investigator (manager).
 - Lead Investigators.
 - Nurse Investigators.
 - Investigators.
 - 2 analysts.
 - 2 paralegals.
 - 4 legal support staff.

How Does A MFCU Operate?

- Partially funded by federal grant.
 - 75% of MFCU expenses funded through federal grant.
Remaining 25% through State funds.
- Federal law sets specific performance standards for compliance with federal grant and federal law.
 - 42 CFR Part 1007.
 - Office of Inspector General frequently issues policy guidance to MFCUs on areas ranging from authority to prosecute to proposed plea agreements.



What Can a MFCU Do?

- Investigate and prosecute Medicaid provider fraud.
 - Original jurisdiction under State law. *See* Minn. Stat. § 256B.12
 - May also investigate and prosecute certain crimes arising out of same set of circumstances.
- Investigate and prosecute “patient abuse and neglect.”
 - Crimes against people living in Medicaid funded facilities, regardless of whether the victim abused, neglected, or exploited received insurance through Minnesota medical assistance program.
 - Generally covered by neglect or abuse of vulnerable adult statutes and financial exploitation statutes, but may include others.
 - AG’s office lacks original jurisdiction to prosecute these crimes, so the Minnesota MFCU requires referral from local county attorney.
- Assist other law enforcement and prosecutorial entities in the above cases.
 - Assisted federal law enforcement in cases brought by the USAO.
 - Will assist counties upon request.

What Can A MFCU Not Do?

- Investigations not covered under federal grant.
 - Recipient fraud, i.e., fraud in obtaining Medicaid benefits.
 - Other criminal offenses that do not arise out of same set of circumstances as permissible activities.
 - Not permissible: investigate contraband (drugs, guns) found on site while executing a premises warrant.
 - Permissible: investigate the concealing of criminal proceeds of money swindled from the Medicaid program by an enrolled provider.
- MFCUs are prohibited from involving themselves in actions of single state agencies (Minnesota DHS).
 - Cannot tell DHS to not suspend a particular provider's payments.
 - Cannot tell DHS to lift suspension or revoke administrative action.
 - Cannot tell DHS to take any administrative action against a provider.

What Does the MFCU Investigate?

Recent provider cases.

- Dentists.
- Physical therapists.
- Acupuncturists.
- Chiropractors.
- Mental health therapists.
- Nurses.
- Doctors.
- Home health care provider agencies and individuals.
 - Home and community based (waivered) services, home care nursing, adult rehabilitative mental health services, personal care assistant services.
- Non-Emergency medical transportation companies and individuals.
- Substance abuse treatment providers.
- EIDBI services.



How Does the MFCU Get Its Cases?

- Minnesota Department of Human Services.
- Managed Care Organizations (UCare, Blue Cross/Blue Shield, Medica, and others).
- Local, state, or federal law enforcement.
- Other state agencies.
- Tips from the public.

MFCU Investigators

- **1 Supervising Investigator**

Performs people management of investigators and analysts, trains new hires, conducts pre-employment screening and 1st round of new applicant interviews for investigators, conducts trainings for investigators, leads outreach efforts with other organizations, assists with investigates complex fraud and abuse/neglect cases.

- **1 Investigative Auditor**

investigates complex fraud and abuse/neglect cases, reviews incoming referrals from DHS / MCO's, performs various statistical and grant-related tasks.

- **3 Lead Investigators**

investigates complex fraud and abuse/neglect cases and trains new hires.

- **2 Nurse Investigators**

leads investigations of abuse/neglect cases, assists with fraud cases, screens abuse/neglect referrals.

- **1 Lead Analyst**

conducts complex data analysis to assist investigators with larger investigations, assists with pre-employment screening and 1st round of new applicant interviews for analysts.

- **10 Investigators**

investigate billing fraud and abuse/neglect.

- **Investigative Staff Backgrounds:**

- Banking / Financial.
- Accounting.
- Local / Federal Law Enforcement.
- Corrections / Probation / Parole.
- Nursing.
- Health care investigations.
- Private investigations.
- Military.

MFCU Budget

- Annual budget set and approved by US Department of Health and Human Services' Office of Inspector General.
- Federal government pays 75% of costs of MFCU costs, while State pay for 25%.
- Each MFCU unit size based on the size of its State Medicaid Budget.
 - For instance, in 2023, California had a Medicaid budget of \$156.6 billion and a MFCU staff of 256, while South Dakota had a Medicaid budget of \$1.275 billion and a MFCU staff of 5.
- Minnesota MFCU size presently at 32. Was initially set at this size when State Medicaid Budget was \$13 billion.
- Based on a Minnesota State Medicaid operating budget of approximately \$20 billion, Minnesota MFCU staff size expected to be 41.

Minnesota MFCU Staff Size

- Minnesota MFCU staff size has not increased at same rate as State Medicaid spending.

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Minnesota MFCU Budget (in millions)	\$4	\$4.90	\$4.90	\$5.10	\$5.39
Minnesota State Medicaid Budget (in billions)	\$12.90	\$13.50	\$13.50	\$15.60	\$19.60
Minnesota MFCU Approved Staff Size	32	32	32	32	32
Minnesota MFCU Predicted Staff Size	30	31	31	34	41

Minnesota MFCU Staff Size

- States with similar Medicaid budgets often have larger staffs than Minnesota MFCU.

<u>State</u>	<u>Medicaid Budget (in billions)</u>	<u>Staff</u>
Kentucky	\$16.80	34
Indiana	\$17.30	59
Louisiana	\$18.80	60
Missouri	\$19	19
Minnesota	\$19.60	32
Massachusetts	\$19.80	38
North Carolina	\$21.30	47
Arizona	\$22	33
Virginia	\$22.50	102
Washington	\$24.30	66

Minnesota MFCU Results

- Despite staff size limitations, Minnesota MFCU regularly outpaces peer states in number of fraud convictions.
- Department of Health and Human Services' Office of Inspector General noted that from 2020 – 2022, Minnesota had the most provider fraud convictions when compared with similarly sized states (with staff sizes between 22 and 38).
- In most recent reporting years (2023 and 2024), Minnesota MFCU outpaced other States with larger budgets and staff sizes in fraud convictions.

Minnesota MFCU Budget Request

- Minnesota MFCU asking for staff to grow from 32 to 41, an increase of 9 people.
- Growth in line with what is expected of us by U.S. Department of Health and Human Services Office of Inspector General.

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Minnesota MFCU Policy Change Request

- Amend Minn. Stat. § 609.466 to address current gaps in legislation.
 - Current statute only applies to fraudulent claims submitted to State agency (DHS), not to managed care organizations.
 - Revised statute would apply to fraudulent claims submitted to any payor.
 - Current statute is an attempt crime, not a completed theft crime, and only carries a single penalty provision, with a maximum penalty of 2.5 years in prison, and does not contain any aggregation or venue provisions.
 - Revised statute would align with other theft statute penalties, and would carry both aggregation and venue provisions to mirror other theft statutes.
 - Revised statute, designed by MFCU prosecutors to address issues raised in district courts, will close other loopholes that current statutes do not cover.

Minnesota MFCU Policy Change Request

- Amendments to Minn. Stat. § 256B.12 and 628.26, subd. (f) necessary based on recodification of Minn. Stat. § 609.466 to 609.467.
- Amendment to Minn. Stat. § 8.16 would provide that, when AGO is conducting a provider fraud investigation under Minn. Stat. § 256B.12, the AGO same authority to subpoena financial records as county attorneys do when they conduct welfare fraud investigations.

Questions

Nick Wanka, Minnesota MFCU Director