

MEDICAID FRAUD AND ABUSE DIVISION ANNUAL REPORT



2003-2004

OFFICE OF THE KANSAS
ATTORNEY GENERAL
PHILL KLINE

KANSAS ATTORNEY GENERAL MEDICAID FRAUD CONTROL UNIT

2003-2004 ANNUAL REPORT

The Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office is the Medicaid Fraud Control Unit for the State of Kansas. (Kansas Statutes Annotated 21-3852). This annual report covers the reporting period of June 30, 2003 to July 1, 2004, and provides the information required by 42 C.F.R. § 1007.19. It is submitted in conjunction with the re-certification questionnaire requested by the Office of Inspector General.

(a) **The number of investigations initiated and the number completed or closed, categorized by type of provider are:**

Provider	Initiated Cases	Closed Cases
1. Nursing Facilities	10	4
2. Hospitals		
3. Other Institutions		
4. Substance Abuse/Rehab Ctr	1	
6. Other Facilities	3	
7. MD/DO	2	
8. Dentists		3
13. Other Practioners		
14. Pharmacy	5	
15. DME		
17. Transportation	5	1
18. Home Health Care	18	16
20. Psychologist		
21. Other Medical Support	3	1
23. Patient Abuse/Neglect	2	14
24. Patient Funds	5	3
25. Other		
TOTALS	54	42

Open Cases as of 07/01/2003	76
Add: Cases Initiated During Period	54
Less: Cases Closed/Completed	(42)
Open Cases as of 06/30/2004	88

(b) **Number of cases prosecuted or referred for prosecution:**

10

Number of cases finally resolved and their outcomes:

11 Ten convicted by pleas of guilty or no contest; 1 convicted after being found guilty following a trial.

Number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence:

42

(c) **Number of complaints received regarding abuse and neglect of patients in health care facilities:**

2304

Every complaint received by the Kansas Department of Aging (formerly the Kansas Department of Health and Environment) regarding healthcare facilities and consumers is reviewed. Most of the complaints are about such issues as room temperatures, dissatisfaction with food or food service, too much noise in the facility, etc.

Number of such complaints investigated by the Unit:

2

Number of complaints referred to other state agencies:

0

(d) **Number of recovery actions initiated by the Unit:**

0

Number of recovery actions referred to another agency:

17

Total amount of overpayments identified by the Unit:

For this reporting period the unit did not identify any overpayments. In the referral process the unit determined that there was probable cause to believe that overpayments had been made but left the determination of the amounts up to the agencies to whom the matters were referred.

Total amount of overpayments actually collected by the Unit:

\$ 3,841,089.02 (This number includes both the federal and state shares of global settlements pursued in conjunction with the National Association of Medicaid Fraud Control Units, but does not include any penalties, attorneys fees or costs recovered in those settlements.)

(e) Number of recovery actions initiated by the state Medicaid agency under its agreement with the unit :

The state Medicaid agency is the Kansas Department of Social and Rehabilitation Services (SRS). During this reporting period SRS reported initiating 98,348.00 recovery actions.

Total amount of overpayments actually collected by the state Medicaid agency under this agreement:

SRS reported net savings of \$ 9,457,398.97

(f) Projections:

The Medicaid Fraud Control Unit anticipates that the more aggressive attitude of the current staff, which is more in line with the Attorney General's plan of vigilantly prosecuting fraud and abuse in the system and cracking down to the fullest extent of the law, coupled with an increase in staffing should continue to significantly improve the effectiveness of the unit. Additionally, recent contacts with other agencies, including the Kansas Board of Nursing and Board of Healing Arts have resulted in an increase in referrals. Accordingly, the Unit anticipates an increase in investigations and prosecutions during the next reporting period. The unit projects that, as long as fraud and abuse continue, it will continue to grow and produce results consistent with the above described

philosophy.

(g) **Costs incurred by the Unit:**

\$ 572,868	Total federal and state direct costs during this reporting period.
\$ 74,637	total federal & state indirect costs during the period
<hr/>	
\$ 647,505	Total Costs

(h) **Evaluation narrative of the Unit's performance during the period of time covered by this report:**

EDS replaced Blue Cross and Blue Shield of Kansas (BC/BS) as the fiscal agent for the state Medicaid agency, the Kansas Department of Social and Rehabilitation Services (SRS), on July 1, 2002. EDS' transition to a new computer system has not yet been fully completed. Although the new Medicaid Management Information System (MMIS) became operational on October 20, 2003, and unit representatives were trained on the new system, it has been experiencing problems and is not yet certified by CMS. The Decision Support System component of the MMIS (which is supposed to extract, and create reports of historical eligibility and claims data) is difficult to fully utilize by off-site users and access to system programmers is hampered since the programmers are located out of state. Additionally, *Ad Hoc* reports of older historical data are not, or can not be provided in a timely manner.

Last legislative session the state legislature failed to pass several legislative initiatives proposed by the Attorney General at the request of the unit. Those proposals would have created a civil false claims act, a state *qui tam* act, and provided for asset forfeiture. Those proposals will be reintroduced when the legislature re-convenes in January 2005. During this reporting period the legislature did increase the severity level of certain crimes of financial exploitation of dependant adults to person felony severity.

The current unit staff consists of nine active and one inactive members as follows: one Deputy Attorney General serving as Director, two Assistant Attorneys General, one of whom has been on a military leave of absence since August 1, 2002, an Auditor, four certified law enforcement officers, a Research Analyst, and a paralegal/secretary. One of the law enforcement officers is the Chief Investigator for the unit, and one also serves as an additional Research Analyst.

Notwithstanding the above, during this reporting period, the unit has enjoyed greater productivity and success than it has in the recent past. For example in the last three federal fiscal years the unit prosecuted eleven fraud cases (all successfully) and obtained Court ordered recovery of \$69,339.24. The current Attorney General took office on

January 13, 2003. Shortly after the start of the current federal fiscal year he made some changes in the organization of the Medicaid fraud control unit to implement changes to more closely reflect his philosophy toward prosecution of Medicaid fraud and abuse. As a result, to date in the current federal fiscal year, the unit has prosecuted ten new cases of fraud and/or abuse. The dollar amount of recoveries ordered, to date, in the current federal fiscal year, is \$238,757.43.¹

The following are brief synopses of some of the criminal cases prosecuted by the unit during this reporting period:

State of Kansas v. Christine Allen

This case was pending trial at the time of the 2002-2003 Annual Report. Ms. Allen was charged with five counts of Mistreatment of a Dependent Adult. Authorities found five persons suffering from severe and persistent mental illness or senile dementia living in squalid conditions in an adult care home owned by Ms. Allen. The home had no running water, no heat, a defective sewage system, exposed electrical wiring and rotted floors. Rotten food was observed on the kitchen counters and in the refrigerator and freezer. The residents were unsupervised and were fed dog food. Following the trial Ms. Allen was found guilty as charged. Because under the statute the charges were all misdemeanors, she was placed on twelve months probation on each count (to run concurrently) and prohibited from (1) being a representative payee on any social security check or any check issued by or on behalf of the state's Medicaid agency, (2) taking any dependent adults into her home or any other home in which she resides or owns, other than a family member; and (3) from working with individuals diagnosed with a Severe Persistent Mental Illness, or found to be Severely Persistent Mentally Ill.

State of Kansas v. Lillian Meirink

This case was pending trial at the time of the 2002-2003 Annual Report. Ms. Meirink was charged with two misdemeanor counts of mistreatment of a dependent adult. Ms. Meirink took unfair advantage of the financial resources of two dependent adults residing in a sheltered living setting. As part of a plea bargain Ms. Meirink plead no contest to one of the counts and the state dismissed the other. She was sentenced to a twelve month jail term which was suspended and she was placed on twelve months probation and prohibited from working with dependent adults. She made full restitution to the victims.

¹The recoveries mentioned in this paragraph do not include the amounts received from global settlements.

State of Kansas v. Paul Stuart & Donna Jackson

Ms. Jackson, a Medicaid recipient entitled to receive care and services from a personal care attendant, and Mr. Stuart, her significant other, were separately charged with submitting false claims to the Medicaid program. The pair claimed that Mr. Stuart had provided personal care attendant services for Ms. Jackson which had not been provided. They each plead no contest and were convicted. Both received sentences of six months in the state prison system but were each given twelve months probation and ordered to pay restitution, fees, and costs. Because they are both now residents of Missouri, the supervision of their probation was transferred there. The Missouri MFCU was notified.

State of Kansas v. Dawn M. Williams

Ms. Williams was charged with ten felony counts of criminal use of financial card, forgery, and theft as a result of stealing and using a credit card and check book from two dependant adults in a adult care facility where she had been employed. Ms. Williams plead no contest to and was convicted on four of the charges. The state dismissed the other counts in exchange for the plea. Ms. Williams was sentenced to eight months in the state prison system but given eighteen months probation and ordered to pay restitution, fees, and costs.

State of Kansas v. Jeff Bouchard & John Bouchard

Jeff Bouchard, a Medicaid recipient entitled to receive care and services from a personal care attendant, who was also enrolled as a transportation services provider, and his brother John were separately charged with making false claims to the Medicaid program for personal care attendant services and transportation services that were not provided. John plead no contest to and was found guilty of three felony counts and one misdemeanor count. Jeff plead to three felony counts and two misdemeanor counts. Both were ordered to pay restitution, fees, and costs. John was sentenced to ten months in the state prison system on one of the felony counts and six months on each of the other two. He was sentenced to twelve months jail time on the misdemeanor. In lieu of incarceration he was placed on probation for three consecutive twelve month periods. Jeff was sentenced to a total of twenty months (consecutive) in the state prison system on the felonies and twelve months for each misdemeanor count, to be served concurrently, but consecutive to the felonies. He then was placed on twelve months probation for the felonies, but ordered to serve 208 days in the county jail, on the misdemeanor sentences, to be served on weekends. After serving a portion of the sentence, the incarceration portion was modified to 365 consecutive days of house arrest.

State of Kansas v. Janet Crouch, Mark Crouch, Victor Baber, and Michael McGuire

Ms. Crouch, a Medicaid recipient entitled to receive care and services from a personal care attendant, and her husband Mark conspired with Mr. Baber and Mr. McGuire to submit false claims to the Medicaid program. Mr. and Ms. Crouch also criminally solicited two other individuals to participate in the fraud. As a result of the conspiracy the Medicaid program paid for services that were not provided. The conspirators split the money. Separate cases were filed against them. Ms. Crouch plead guilty to ten felony counts of Medicaid fraud. She was sentenced to eight months in prison on one of the counts and six months on each of the other charges. All charges run concurrently. Imposition of incarceration was suspended and she was placed on twelve months (concurrent) probation on all charges and ordered to pay restitution, fees, and costs. Mr. Baber plead guilty to two counts of Medicaid fraud. He was sentenced to eight months in prison on one count and fourteen months on the other, both to run concurrently. Imposition of incarceration was suspended and he was placed on twelve months (concurrent) probation on each charge and ordered to pay restitution, fees, and costs. Trials of the other two participants are pending.

State of Kansas v. Benita Gihvan & Rameshia Spears

Ms. Givhan, a Medicaid recipient entitled to receive care and services from a personal care attendant, and her sister, Ms. Spears, conspired to submit false claims to the Medicaid program for personal care attendant services that were not performed. They were charged separately. Both plead no contest to one felony count of making a false claim, and two felony counts of conspiring to make false claims to the Medicaid program. Ms Givhan was sentenced to twelve months in the state prison system on the felony count of making a false claim and six months in the state prison system on each of two felony counts of conspiring to make false claims to the Medicaid program. The prison terms were suspended and she was placed on twenty four months intensive supervised probation and ordered to pay restitution, fees, and costs. Ms. Spears will be sentenced in mid-August 2004.

State of Kansas v. M&M Transportation Inc.

As reported in the last annual report, this case was the result of a three year investigation by the Kansas Attorney General's Medicaid Fraud and Abuse Division, the U.S. Department of Health and Human Services, Office of Inspector General, and the U.S. Attorney's Office. Also, as reported previously, the defendants were indicted by a federal grand jury on June 19, 2003 with conspiracy and a scheme to defraud Medicaid of over \$2,000,000. The unit assisted the U.S. Attorney's Office with trial preparation which has now been made moot by guilty pleas from both of the individual defendants. Sentencing for both is set for mid-October 2004.

