



KANSAS ATTORNEY GENERAL

Derek Schmidt

Medicaid Fraud and Abuse Division

Annual Report

Kansas Fiscal Year 2013
July 1, 2012 – June 30, 2013

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Table of Contents

Purpose of the Medicaid Fraud Control Units

Mission Statement

History of the Unit

Compliance with Federal Performance Standards

Funding

Staffing

Training

Performance and Projections

42 C.F.R. § 1007.17 Information

Significant Cases

Public Awareness

Partnerships and Other Relationships

Issues and Recommendations

Appendixes A-D



Attorney General Derek Schmidt has made protecting Kansans from fraud a priority since taking office January 10, 2011. AG Schmidt has demonstrated his willingness to devote the necessary resources and time to aggressively investigate and prosecute those who commit fraud against the Medicaid program, as well as those who abuse and exploit the elderly.

The Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office (the Unit) is the Medicaid Fraud Control Unit (MFCU) for the State of Kansas pursuant to Kansas Statutes Annotated 75-725. This annual report covers the reporting period of July 1, 2012, through June 30, 2013, and provides the information required by 42 C.F.R. 1007.17.

PURPOSE OF MEDICAID FRAUD CONTROL UNITS

The purpose of the state MFCU is to serve as a single identifiable agency of state government to deter and combat fraud, waste and abuse committed against the Kansas Medicaid program. This is accomplished by investigating and taking appropriate criminal or civil action against Medicaid providers defrauding the Kansas Medicaid program. The MFCU is also responsible for investigating and prosecuting, or referring for prosecution, crimes of abuse, neglect or exploitation committed against patients being cared for in residential care facilities.

In completing these tasks, the MFCU must maintain a staff of qualified attorneys, investigators and auditors (analysts) knowledgeable about the provision of medical assistance and the operation of health care providers. The United States Department of Health and Human Services, Office of Inspector General provides funding and works with the MFCU as necessary.

MISSION STATEMENT OF THE UNIT

The Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office is dedicated to the identification, investigation and litigation of conduct involving health care provider fraud committed against the Kansas Medicaid program, as well as physical abuse or neglect, and financial exploitation of patients in residential care facilities.

HISTORY OF UNIT

The Unit was established pursuant to legislation enacted by the Kansas Legislature in 1995. The Unit operates under the statutory authority granted at Kansas Statutes Annotated 75-725 and 21-5927, et seq. The Unit received certification in 1995 and has been granted recertification each year since. The Unit is a division within the Kansas Attorney General's Office.

COMPLIANCE WITH FEDERAL PERFORMANCE STANDARDS

The Unit is required to comply with specific performance standards outlined by the federal government. This Annual Report, along with the responses to the Recertification Questionnaire, will demonstrate that the Unit is in compliance with each of the Federal Performance Standards.

FUNDING

The Unit is funded 75% by the federal grant and 25% by State of Kansas matching funds. The total budget approved for federal fiscal year 2013 is \$1,584,814.00, which includes indirect costs.

A copy of the FY2013 Notice of Award for the Unit is included as Appendix A.

STAFFING

The Unit is currently staffed with a Deputy Attorney General, who serves as the Director of the Unit, three (3) Assistant Attorneys General, a Senior Analyst, three (3) Analysts, a Special Agent-In-Charge, five (5) Special Agents, and an Administrative Assistant.

Director/Deputy Attorney General

The Director of the Unit is a Deputy Attorney General, having worked for the Kansas Attorney General's Office for nearly twelve (12) years and having more than ten (10) years experience prosecuting white collar and other crimes in the Unit. The Director is cross-designated as a Special Assistant United States Attorney, having led or participated in numerous federal fraud cases.

Assistant Attorneys General

The Assistant Attorneys General have varied experiences that make them vital to the Unit. One has an extensive background in criminal prosecution, white collar and violent crimes, as well as supervisory experience from his previous employment. The other prosecutor came to us from a civil background. She has developed into an outstanding prosecutor and serves as a Special Assistant United States Attorney for the Unit. In addition, we have an Assistant Attorney General with vast experience in handling complex civil litigation. He has been given the responsibility of pursuing civil cases on behalf of the Unit and the State of Kansas. This includes False Claims Act matters as well as forfeiture proceedings. He is also cross-designated as a Special Assistant United States Attorney to handle civil cases on behalf of the State of Kansas in federal court.

Special Agents

The Special Agent in Charge has extensive experience investigating all types of crime. Before joining the Unit he served as the Sheriff of Jackson County, Kansas on two separate occasions. He brings supervisory skills, extensive knowledge and practical experience to the Unit.

All six Special Agents are certified Law Enforcement Officers, with a combined total of over 123 years of experience between them, each possessing special skills that make them very valuable to the Unit.

Analysts/Auditors

The analysts are headed by our Senior Analyst. She came to the Unit after having worked for more than 35 years for the Medicaid program in various capacities. She brought with her a wealth of knowledge about the Kansas Medicaid program and serves a vital role in the case evaluation process. She also is a Certified Fraud Examiner.

The other three members of our audit team bring varying experiences to the Unit. One actually fills multiple roles in the Unit. He is an Assistant Attorney General, serving as a backup to the attorneys on staff. His primary role is to handle data analysis in global matters in which the State participates. His technical background has been invaluable in assisting with data requests and analysis in cases investigated by the Unit. Another of the analysts brings a combination of Medicaid program experience, having served as the SURS manager prior to joining the Unit, as well as financial analysis. The third, and most recent addition to the analyst team, has an accounting and financial background. She is currently sitting for the Certified Public Accountant exam and has extensive auditing experience.

Administrative

Finally, the Unit currently has one support staff, an administrative assistant. She serves in multiple roles assisting the attorneys with trial work while at the same time providing invaluable assistance to the investigative staff. She also serves as an office manager, responsible for keeping up with the day-to-day responsibilities of the Unit.

An organizational chart of the Unit is included as Appendix B, as is an organizational chart of the Kansas Attorney General's Office.

TRAINING

The Unit has committed itself to providing each and every staff member with the opportunity to experience a wide variety of training targeted at educating them on the skills and techniques needed to understand and perform the duties related to their respective positions. It remains the focus of the Unit to seek out and provide training opportunities to Unit staff that will serve them in their various capacities as employees of the Unit.

In addition to receiving training for staff, the Unit recognizes the important role of providing training to others. This serves to educate others about the Unit and our objectives. This form of outreach is a tremendous benefit to the Unit and has worked to encourage referrals to the Unit of potential cases of fraud and abuse. The Unit will continue to seek out new and innovative ways to deliver our message. This includes presentations to the public, as well as presentations to provider groups.

A chart detailing all training received by the staff of the Unit is included as Appendix C.

PERFORMANCE AND PROJECTIONS

42 C.F.R § 1007.17 INFORMATION

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

| | Initiated Cases | Closed Cases |
|--------------------------------------|-----------------|--------------|
| FRAUD | | |
| 1. Hospitals | | |
| 2. Nursing Facility | 1 | |
| 3. Other Long Term Care | 1 | |
| 4. Substance Abuse Treatment Centers | | |
| 5. Other Facilities | | |
| 6. MD/DO | 2 | |
| 7. Dentist | 1 | |
| 8. Podiatrist | | |
| 9. Optometrist/Optician | | |
| 10. Counselor/Psychologist | | |
| 11. Chiropractor | | |
| 12. Other Practitioners | | 1 |
| 13. Pharmacy | 4 | 5 |
| 14. Pharmaceutical Manufacturer | 10 | 25 |
| 15. DME | | |
| 16. Lab | 1 | |
| 17. Transportation | | |
| 18. Home Health Care Agency | 6 | 10 |
| 19. Home Health Care Aides | 23 | 37 |
| 20. All Nurses/PA/NP | | |
| 21. Radiology | | |

| | | |
|-------------------------------------|-----------|-----------|
| 22. Other Medical Support | 1 | 1 |
| 23. Managed Care | 2 | 1 |
| 24. Medicaid Program Administration | | |
| 25. Billing Company | | |
| 26. Other Program Related | | |
| ABUSE & NEGLECT | | |
| 27. Nursing Facility | 1 | |
| 28. Other Long Term Care | | |
| 29. Registered/Licensed/Nurse/PA/NP | 1 | |
| 30. CNA | 2 | 1 |
| 31. Home/Personal Care Aide | | |
| 32. Other Abuse & Neglect | 1 | 1 |
| PATIENT FUNDS | | |
| 33. Non-Direct Care | 1 | 8 |
| 34. Registered/Licensed Nurse/PA/NP | 1 | 1 |
| 35. CNA | | |
| 36. Other Patient Funds | 5 | 1 |
| TOTAL | 64 | 93 |

(b) Current Case Activity

| | |
|-------------------------------|------|
| Open Cases as of 06/30/2012 | 170 |
| Cases Initiated During Period | 64 |
| Less: Cases Closed/Completed | (93) |
| Open Cases as of 06/30/2013 | 141 |

Number of cases prosecuted or referred for prosecution:

- 14 Criminal cases were filed/prosecuted by the Unit**
- 0 Civil cases were filed by or on behalf of the Unit**
- 1 Cases referred to other agencies for prosecution**

Number of cases finally resolved and their outcomes:

- 15 Cases resulted in convictions by pleas of guilty or no contest**
- 2 Convictions resulted in incarceration of defendant**
- 22 Convictions resulted in probation**
- 0 Cases were completed through Pretrial Diversions**
- 0 Case resulted in acquittal by a judge or jury**
- 4 Cases were settled in civil court by Settlement Agreement**
- 0 Cases resulted in civil judgments after trial**

Number of cases investigated but not prosecuted due to insufficient evidence:

- 35 Cases were investigated and closed without prosecution/litigation**

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

The Unit received 0 case referrals from the Kansas Department for Aging and Disability Services (KDADS), formerly Kansas Department on Aging, this past year.

The Attorney General has an Abuse, Neglect and Exploitation Unit (ANE) which, according to Kansas statute, is to receive all cases of substantiated abuse, neglect and exploitation, including, but not limited to, those reported to KDADS. The Unit works closely with the ANE Unit and has received reports of suspected abuse and/or exploitation from ANE.

The Unit received 7 case referrals from ANE this past year.

The Unit received 4 referrals of abuse, neglect or exploitation from other agencies.

The Unit received 9 referrals of abuse, neglect or exploitation from individuals or private entities.

Number of such complaints investigated by the Unit:

The Unit opened investigations in 4 cases that were referred by ANE.

The Unit opened 4 investigations based on referrals from other agencies, and 3 investigations based upon referrals from individuals or private entities.

Number of such complaints referred by the Unit to other state agencies:

The Unit referred 7 complaints alleging abuse, neglect or exploitation to other federal, state or local agencies.

(d) Recovery Actions

Number of recovery actions initiated by the Unit:

The Unit does not normally engage in recovery actions, instead referring those matters to the Single State Agency to be handled under their administrative hearing process.

Number of recovery actions referred to another agency:

There were 9 cases referred to other agencies, including the Single State Agency, for recovery actions.

Total amount of overpayments identified by the Unit:

For this reporting period the Unit identified and referred to the Single State Agency matters of apparent overpayments that do not rise to the level of criminal or civil action against the provider. Thus, the determination of the amount of overpayment in those instances was left up to the Single State Agency.

Number of recovery actions initiated by the Single State Agency under its agreement with the Unit:

The Unit has no way of independently tracking the number of actions initiated by the Single State Agency and must rely on the information provided to us by that agency.

For this reporting period, 44 recovery actions were reported as having been initiated by the Single State Agency as administrative recoupments under its agreement with the Unit.

(e) **Overpayments Collected**

Total amount of overpayments collected by the Unit:

Global Cases:

\$15,105,750.36 (This number includes both the federal and state shares of global case 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.)

Criminal Cases:

\$2,316,590.24 was ordered as restitution in criminal fraud cases completed by the Unit in which a conviction was obtained. This amount will be collected by the Single State Agency.

Civil Cases:

\$16,279,603.06 was ordered as a result of civil judgments obtained by the Unit. The proceeds of these settlements were paid to the Single State Agency.

Total amount of overpayments actually collected by the Single State Agency under its agreement with the Unit:

Pursuant to the MOU, the Single State Agency is to prepare a quarterly report showing all overpayments collected on the criminal convictions obtained by the Unit. Due to recent personnel changes and reorganization due to the switch to managed care, the Single State Agency has not been able to maintain this report, therefore the Unit has been unable to obtain figures for the amount of overpayments collected by the Single State Agency.

The Unit does receive an annual report setting forth the recoupment and administrative procedure activities for the Single State Agency. For the period of this report the Single State Agency identified \$3,019,686.12 in overpayments for recoupment under the administrative recoupment process. During this same period of time \$2,229,870.75 was recouped leaving an outstanding balance of \$10,942,872.65 in administrative recoupments.

(f) Projections for next 12 months

| | |
|------------|--|
| 175 | Projected fraud referrals |
| 25 | Projected abuse referrals |
| 95 | Investigations projected to be opened |
| 18 | Criminal cases projected to be filed |
| 30 | Criminal cases projected to be completed |
| 2 | Civil cases projected to be filed |
| 5 | Cases projected to be finalized to civil judgment |
| 105 | Total cases to be closed |

(g) Costs incurred by the Unit

Total federal and state direct costs during this reporting period:

\$1,291,583.78

Total federal and state indirect costs during this reporting period:

\$148,539.45

Total Costs incurred by the Unit:

\$1,440,123.23

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

For the period of time from July 1, 2012 through June 30, 2013 the Unit reported total criminal and civil recoveries in excess of \$33.7 million, exceeding the previous single year recovery mark for the Unit by more than \$5 million. This past year also saw the completion of a number of cases that involved lengthy investigations and sometimes protracted litigation. (See Significant Cases below). Aside from the success that was realized in completing these cases, they also demonstrate the great working relationships the Unit has developed with other agencies throughout the state as each of the cases involved extensive collaboration with agencies outside of the Attorney General's Office.

SIGNIFICANT CASE(S) FOR REPORTING PERIOD

United States v. Caela Kinchion-White

On March 9, 2011, White-Kinchion was charged in United States District Court, District of Kansas, with one count of conspiracy to commit health care fraud and twelve counts of health care fraud. During the case period, White-Kinchion was the director of nursing at ProActive Home Care, Inc., a home health agency located in Wichita, Kansas. The indictment alleged that White-Kinchion directed ProActive employees to document services that were never provided, upcoded or medically unnecessary. Evidence at trial revealed patients were in hospitals, nursing facilities, drug rehabilitation, jail or even deceased at the time the defendant and others reportedly provided home health services billed to Medicaid. On May 31, 2013, following nearly a month-long trial, a jury found White-Kinchion guilty of the conspiracy and eleven of the twelve health care fraud counts. The health care fraud counts alone total more than \$700,000 in false claims billed to Medicaid. Sentencing is scheduled for September 2013.

United States v. Jason Sellers

On August 22, 2012, the U.S. Attorney's Office for the District of Kansas charged Jason Sellers, the chief financial officer of a Topeka-based nonprofit corporation with a scheme to steal more than \$2 million in Medicaid funds. The complaint alleged that from 2007 through 2011, Sellers fraudulently diverted Medicaid funds to a shell company he created. Among other things, Sellers used the money to build and furnish his 3,755 square-foot home on 11 acres. Sellers pled guilty to wire fraud, and was ordered to repay \$2,077,251.79 to the Medicaid program and serve 36 months in prison. While the U.S. Attorney's Office led prosecution of this case, the Unit was involved in all aspects of the investigation, including execution of a search warrant, in partnership with the Department of Health and Human Services, Federal Bureau of Investigation, and Kansas Bureau of Investigation.

United States v. Lupe Mains

On April 2, 2013, Lupe Adela Mains pled guilty in U.S. District Court, District of Kansas, to one count of health care fraud and one count of mail fraud as charged in an indictment returned in July 2012. Mains was appointed as guardian and conservator for her severely mentally disabled sister, Rachel. Mains was also representative payee for Railroad Retirement Board benefits payable to Rachel and applied to become Rachel's care attendant under the Home Community Based Services program. During the case period, Rachel actually resided with another sister, although Mains continued to collect Railroad benefits and care attendant payments for her purported care of Rachel. In addition to restitution to the Kansas Medicaid program in the amount of \$27,123 and the Railroad Retirement Board in the amount of \$23,119, Mains was sentenced to one month in a federal penitentiary, followed by 13 months in community confinement, and five months supervised release.

State of Kansas v. Bonnie Newman

A joint investigation by the Sedan Police Department, Chautauqua County Sheriff's Office, and the Unit resulted in charges of unlawful acts relating to the Medicaid program, making a false claim to the Medicaid program, conspiracy, mistreatment of a dependent adult, and nine counts of animal cruelty against Bonnie Newman. Local law enforcement and Adult Protective Services removed Newman's severely disabled, nonverbal adult daughter, Jamie, from her home on March 5, 2009, due to the deplorable conditions they found. During a welfare check, Jamie was discovered lying on a urine-soaked mattress with four dogs and a goat next to an open flame stove. Piles of feces surrounded the mattress and covered the floor of the home, in addition to rotten food, garbage, multiple animals, and head-high stacks of possessions. Newman hired Jamie's sister, Cheri, ostensibly to provide personal care attendant services to Jamie. Medicaid paid more than \$9,000 for care attendant services that could not have been provided based upon the conditions of the home and Jamie. A jury found Newman guilty of making a false claim to the Medicaid program, mistreatment of a dependent adult, and eight counts of cruelty to animals. Newman was sentenced to serve 30 days in the county jail, followed by 12 months of probation. She was also ordered to make restitution in the amount of \$35,869. In a related case, Cheri pled guilty to mistreatment of a dependent adult and conspiracy. She was sentenced to 12 months of probation, and ordered to repay

\$9,743 to Kansas Medicaid. Jamie now resides in a group home.

Average Wholesale Price (AWP) Litigation

The Unit remained actively involved with outside counsel in the Average Wholesale Price (AWP) cases that initially filed beginning in 2008. For the reporting period six (6) additional AWP cases were settled, including the case that had been filed against McKesson which had been the subject of a global case settlement by the National Association of Medicaid Fraud Control Units. The total of these settlements resulted in nearly \$15 million being repaid to the Kansas Medicaid Program. Many of the original thirty-six (36) cases have been settled leaving nine (9) cases that will likely result in litigation over the next two years. The first of these trials is scheduled to begin in March 2014, and a number of staff will be involved in the various stages of litigation.

PUBLIC AWARENESS

It has been a matter of importance to the Attorney General that this Unit continues to seize upon every opportunity to work with and educate the public on the impacts of health care fraud, as well as those of abuse, neglect and exploitation. As a result, the Unit remains dedicated to providing education to Medicaid providers, health care providers, various state agencies and their employees and the general public about these very important issues.

The Unit participates in the Attorney General's informational booth at the annual Kansas State Fair. This is a time for members of the Unit's staff to meet with the general public and answer questions about the Unit. It is also an opportunity to create more awareness about the fraud, waste and abuse taking place in the State of Kansas.

A chart setting forth the presentations made by staff of the Unit is set forth in Appendix D.

PARTNERSHIPS AND OTHER RELATIONSHIPS

The Unit has long recognized the importance of working with other agencies in the pursuit of healthcare fraud, as well as in matters of abuse, neglect and exploitation. Throughout this reporting period the Unit has been open to, and has participated in many groups that focus on prevention of fraud and abuse of the elderly. These have allowed the staff of the Unit to network with other experts in the field that may be able to assist in our cases.

[Kansas Medicaid Program – Division of Health Care Finance \(DHCF\)](#)

The Unit continues to maintain a good working relationship with the Single State Agency. The Unit conducts monthly program integrity meetings, which are regularly attended by the legal and program integrity staff of the Single State Agency, as well as staff from the fiscal agent of the Single State Agency. With the recent transition to managed care, it has been vital that the Unit maintain a line of communication in order to obtain answers to the many questions that have arisen. Single State Agency staff has been extremely accommodating and very willing to work with and listen to Unit staff throughout the transition period. Moreover, as the Unit and the Single State Agency continue to develop and improve protocols for handling referrals, the partnership has seemed to strengthen. Once the transition to managed care is complete and there is a more complete view of the landscape, the plan is to revisit the issue of cross-training. For the time being it seems pointless until all parties involved have a grasp of what types of training may be necessary. In the meantime, both parties remain committed to communicating concerns and working together to develop strategies for addressing them.

With the recent transition to managed care by the State of Kansas, the Unit has made a point of reaching out to the managed care entities (MCEs), while specifically targeting the program integrity departments within each of the MCEs. At least one representative of each of the three MCEs attends the monthly program integrity meeting. This has allowed for direct and open communication between the Unit and the MCE about concerns rather than having to rely upon the Single State Agency. There is hope that these relationships will aid in the referral process, as well as the Unit's ability to obtain access to information and records necessary to conduct investigations of those referrals.

[Kansas Department of Health and Environment, Office of Inspector General](#)

The Unit continues to meet regularly with the Inspector General (IG) charged with auditing oversight of the Kansas Medicaid Program. During the course of these audits fraudulent providers have been uncovered leading to referrals to the Unit for investigation and potential criminal or civil cases. The director of the Unit meets monthly with the IG to discuss the efforts of the respective agencies in the ongoing fight against fraud, waste and abuse in the Medicaid program. In addition, the IG has been invited to participate in the Unit's monthly program integrity meetings. Finally, the Director of the Unit serves as one of three (3) members to the Audit Committee responsible for providing guidance to the IG and his staff in conducting audits of the Kansas Medicaid program.

[United States Attorney's Office](#)

The Unit has benefited from a healthy working relationship with many federal agencies. Of particular note is the work that has been accomplished in collaboration with the United States Attorney's Office for the District of Kansas (USAO). The Unit has consistently been invited to participate in cases initiated by the USAO as active participants. Furthermore, the USAO has permitted SAUSA's within the Unit to conduct proceedings in United States District Court.

In addition to the investigative and courtroom relationship that has developed, the Unit has also benefitted from being part of working groups sponsored by the USAO. Many of the Unit's staff are active participants in the Kansas Healthcare Fraud Working Group (KHFWDG) which is a collaborative effort of the USAO and the Unit. As a member of the KHFWDG, the Unit has been relied upon to provide guidance and training at the quarterly meetings. Members of the Unit's staff are also members and active participants in the Kansas City Metro Healthcare Fraud Working Group (KCMHFWDG), which is jointly sponsored by the Federal Bureau of Investigation (FBI) and the United States Attorneys' Office for the District of Kansas and the Western District of Missouri. Membership in each of these working groups has provided tremendous opportunities for networking, even across the Kansas-Missouri border.

Department of Health and Human Services, Office of Inspector General, Office of Investigations (HHS-OIG-OI)

The Unit has a longstanding working relationships with a number of federal agencies which includes the Federal Bureau of Investigations (FBI), Social Security Administration (SSA) and the Drug Enforcement Administration (DEA), to name a few. The Unit has a tremendous partnership with the regional office of the HHS-OIG-OI. With offices in both Kansas City and Wichita, HHS-OIG-OI, has the ability to assist in most of the high population areas of the state. Many of the Unit's cases now involve cooperative efforts of agents from the Unit and HHS-OIG-OI. The Unit values the relationship that has been developed with HHS-OIG-OI and will continue to work to maintain this relationship for years to come.

Other Governmental Entities

With the growing magnitude of exploitation of the elderly it is very important that steps are taken to educate those on the front lines so that they know what to look for and where to report it once they notice possible abuse or exploitation. In an ongoing effort to educate others, the Unit has sought to partner with groups and agencies that foster this type of awareness. The Unit remains active with the Topeka Coalition against Adult Abuse ("TCAA"), which involves a number of local agencies, as well as the local prosecutor's office and law enforcement. This relationship has permitted the Unit to reach out to a number of other agencies in order to develop awareness.

The Unit still retains a position on the Kansas Adult Protective Services Advisory Committee. This Committee was established by the Department for Children and Families (DCF), formerly the Department of Social and Rehabilitation Services, in response to complaints about the State’s perceived failure to respond to reports of abuse against vulnerable adults residing in adult care facilities. Membership on this committee has provided a tremendous opportunity to work directly with state agencies and other individuals throughout the State of Kansas that receive and respond to reports of abuse, neglect and exploitation within the adult care facilities.

The Director of the Unit serves as a member to the Attorney General’s Senior Consumer Protection Advisory Council. This council has been tasked with educating law enforcement, prosecutors and those in state government that work with the elderly on the complexities of identifying, investigating and prosecuting instances of elder abuse, neglect and exploitation.

The Unit also works closely with several regulatory and licensing entities. These include, but are not limited to, the following:

- Kansas Board of Healing Arts**
- Kansas Board of Nursing**
- Kansas Department for Children and Families**
- Kansas Department for Aging and Disability Services**
- Kansas Insurance Department**
- Kansas Board of Pharmacy**
- Kansas Dental Board**
- Office of the Kansas Long-Term Care Ombudsman**

As additional opportunities to enter into relationships that will further the objectives of the Unit present themselves, efforts will be made to collaborate with those entities.

ISSUES AND RECOMMENDATIONS

Managed Care

In January of 2013 Kansas contracted to have managed care cover nearly 100% of Kansas Medicaid's programs. The remainder of the programs will be moved under control of managed care by January of 2014. As a result, the staff members of the Unit have been educated on the systems of the three primary managed care entities, including, but not limited to, three new databases and three new program manuals. One problem is the lack of access to encounter data by the Unit's analysts for use in investigating fraudulent providers. The Single State Agency continues to work with the MCEs to correct the problems with the system that are preventing the unit from having this access. In the meantime the Unit is working on alternative methods for obtaining the data directly from the MCEs. This is not ideal, as it will require identifying the appropriate data fields of each of the MCEs and then figuring out a way to merge the data received from the respective MCEs into one usable database.

The net effect of this move to managed care is that the Unit has yet to receive a meaningful referral from any of the three MCEs and investigative efforts involving any claims submitted after January 2013 have been hindered. While these are serious areas of concern at this point, it is anticipated that they will be resolved over time.

Caseloads

The distribution and completion of cases continues to be a challenge for the Unit. The ongoing goal is to strive to reduce the overall time it takes to investigate and turnaround a case, while maintaining the high standards of the Unit.

Increasingly, many of the referrals coming into the Unit involve larger, more complex issues. Even many of the referrals involving "run of the mill" fraud now involve more advanced schemes to defraud. The result is that many of the cases being opened by the Unit are extremely demanding on our limited resources.

While referrals from the Single State Agency have decreased dramatically since the switch was made from fee-for-service to managed care, referrals from outside sources have continued. Those in the Unit responsible for reviewing and assigning cases are finding that the task triaging cases is a demanding responsibility resulting in much of their time being spent on simply looking over cases to determine which cases must be opened and which cases are not able to be opened due to limited resources. Much time has been devoted to developing thresholds and establishing criteria that can be utilized by staff in deciding whether to open a case. The Unit continues to evaluate each case individually, attempting to prioritize the most important cases. There are times this results in good cases simply not getting opened and investigated.

The issue of opening and staffing cases has become particularly important as the Unit and the Single State Agency continue to grapple with the federal regulation regarding automatic suspension of payments. With the prospect of having a provider suspended until such time as the Unit completes its investigation, and perhaps its litigation of the matter, there is an increasing awareness that the Unit must work through these cases at an even quicker pace. It remains a concern that mistakes may occur in hastily reviewing or investigating a case in order to comply with federal regulations. The Unit will continue to evaluate the situation throughout the next year and work with the Single State Agency to develop policy and protocols to improve the process.

Staffing

While the Unit has adequate staffing to meet the federal requirements, there is always the desire to employ additional staff. Specifically, the Unit could use more staff to aid in the investigation and litigation of the increasing number of civil false claims act cases being referred to the Unit, cases that seem to take much more time and manpower than the standard criminal case. The Unit's staff does a remarkable job of prioritizing cases in order to get the maximum benefit, but many cases are declined due to limited resources (see above) and those declinations have included, unfortunately, legitimate fraud referrals, referrals that under any other circumstances would be worthy of an investigation.



With state budgets still being deeply impacted by the economy, it is difficult to obtain additional staff positions or to request additional monies to pay staff. The end result is that the Unit, as with most other MFCUs, has had to adjust and be able to do more with less.

Legislative Recommendations

A number of legislative proposals were made during this past legislative session. A handful of those made it to the legislature, resulting in passage of one proposal into law. The bill that was passed into law created a reward program, much like Crimestoppers, that permits the Attorney General to reward a reporting party for information leading to a conviction or civil judgment in a Medicaid fraud or false claims matter. Work has begun on those proposals that either failed to make it before the legislature or that were unsuccessful with the goal of revisiting those matters next legislative session. Additional areas of concern have been identified and work is underway to develop proposals that may be presented within the next couple of years. One area is a need to rework some of the criminal fraud statutes.



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
 WASHINGTON, DC 20201



Notice of Award

Grant Number: 1301KS5050
Amendment: 0
Grant Period: 10/01/2012 – 09/30/2013

Grantee:
 Kansas Attorney General
 Medicaid Fraud and Abuse Division

Director: Loren Snell

CFDA: 93.775

Program Title: State Medicaid Fraud Control Units

EIN: 48602992515

DUNS: 149819976

CAN: 3-1994278

Appropriation: 75X0512

Object Class: 41501

Total Approved Budget: \$1,584,816
Federal Share (FFP) 75%: \$1,188,612
Non-Federal Share 25%: \$396,204

Federal funding will be administered in quarterly disbursements as follows:

| Quarter | Federal Share | Match | Cumulative Fed Award | Cum. Match |
|---------------------|---------------|----------|----------------------|------------|
| 10/01/12 – 12/31/12 | \$297,153 | \$99,051 | \$297,153 | \$99,051 |
| 01/01/13 – 03/31/13 | \$297,153 | \$99,051 | \$594,306 | \$198,102 |
| 04/01/13 – 06/30/13 | \$297,153 | \$99,051 | \$891,459 | \$297,153 |
| 07/01/13 – 09/30/13 | \$297,153 | \$99,051 | \$1,188,612 | \$396,204 |

Additional Action(s):

Quarter occurred --- \$---

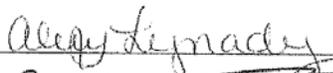
Remarks: Please see the attached Terms and Conditions of Award.

OIG Contact Information and Authorizing Signatures

Susan Burbach, OEI Program Analyst

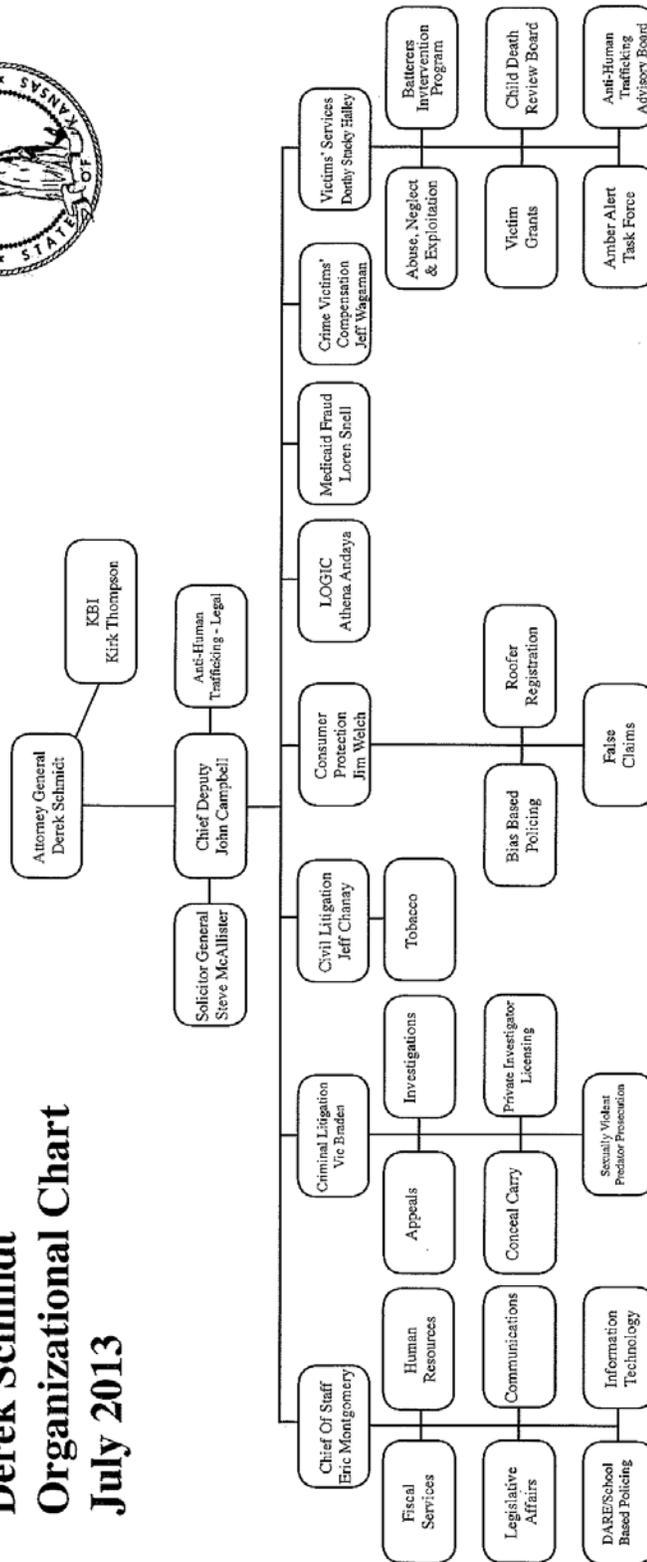
Alexis Lynady, Grants Management Officer

Jason McConachy, Budget Officer

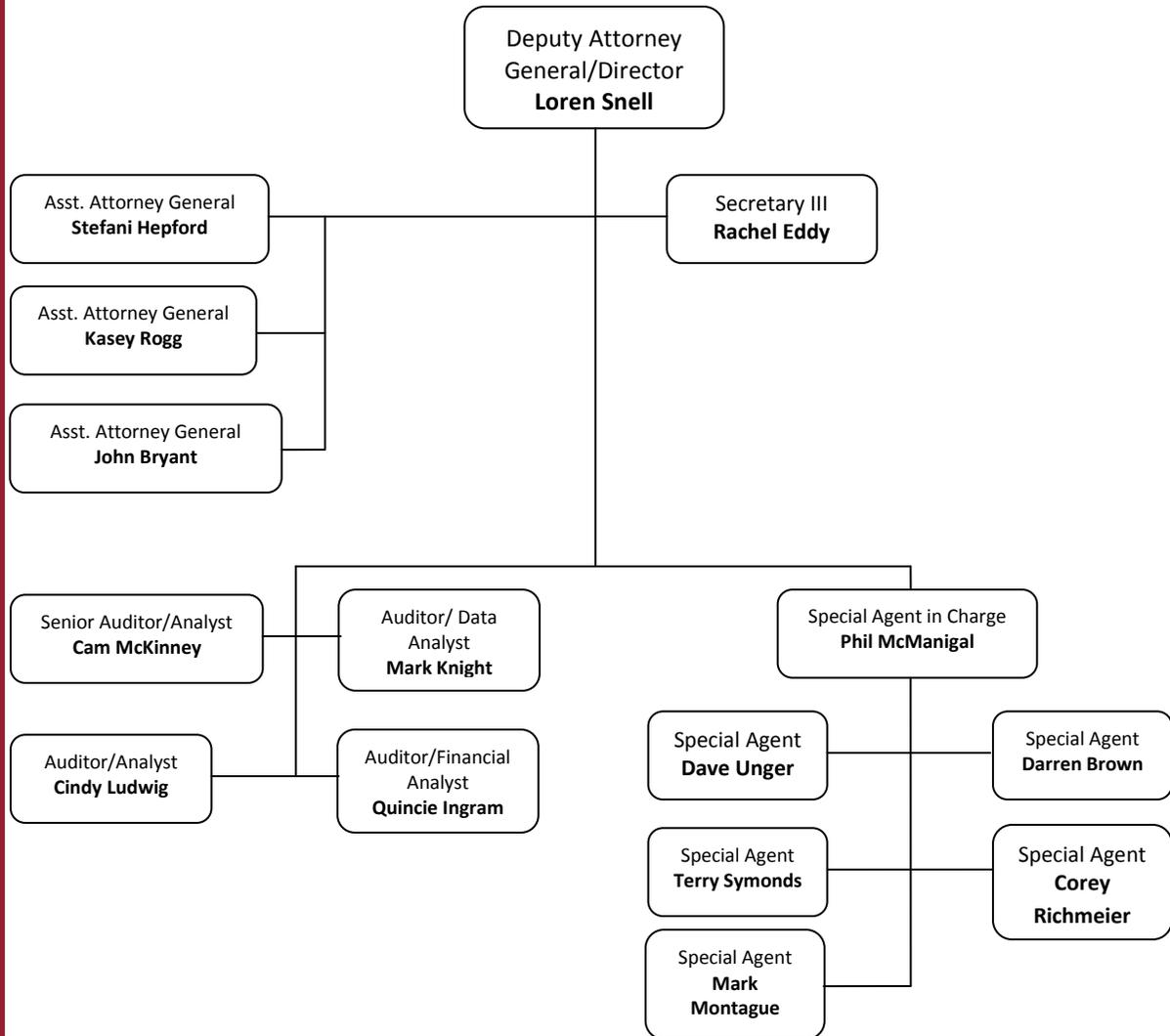
 Date **OCT 01 2012**
 Date **OCT 01 2012**



Kansas Attorney General Derek Schmidt Organizational Chart July 2013



Kansas Attorney General Derek Schmidt Medicaid Fraud & Abuse Division Organizational Chart





Kansas Attorney General
Derek Schmidt

Medicaid Fraud and Abuse Division
 120 SW 10th Avenue, 2nd Floor
 Topeka, KS 66612-1597
 PHONE: (785) 368-6220 or (866) 551-6328
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Appendix C
2012-13 Training

| ATTENDEE | DATE | TRAINING & SPONSOR | LOCATION | TOTAL HRS | ETHCS |
|----------------------------|----------|--|--------------|-----------|-------|
| Loren F. Snell, Jr. | 10/1/12 | NAMFCU Annual Training Program, NAMFCU | New York, NY | 17.5 | |
| | 10/10/12 | Professional Responsibility: Confidentiality and Privilege, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 12/11/12 | Management Sexual Harassment Training, KSAG | Topeka, KS | 1.0 | |
| | 2/8/13 | Watergate II – Cancer on the Presidency, US Attorney's Office | Topeka, KS | 3.0 | 3.0 |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| Stefani Hepford | 10/1/12 | NAMFCU Annual Training Program, NAMFCU | New York, NY | 24.5 | |
| | 10/12/12 | Hot Topics in Elder Law, KBA | Topeka, KS | 1.0 | |
| | 1/25/13 | Evidence Procedures, KSAG | Topeka, KS | 2.5 | 1.0 |
| | 4/3/13 | Brown Bag Ethics: Pillars of Professionalism, KBA | Topeka, KS | 1.0 | 1.0 |
| | 6/20/13 | 2013 Spring Conference, KCDAA | Wichita, KS | 6.0 | 1.0 |
| Kasey Rogg | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 2/8/13 | Watergate II – Cancer on the Presidency, US Attorney's Office | Topeka, KS | 4.5 | 4.5 |



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| ATTENDEE | DATE | TRAINING & SPONSOR | LOCATION | TOTAL HRS | ETHCS |
|-----------------------|----------|--|-----------------------|-----------|-------|
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 5/31/13 | Attorney General's CLE Seminar, KSAG | Topeka, KS | 6.0 | 1.0 |
| John Bryant | 7/18/12 | Striving for Capital Litigation Excellence in Kansas, KSAG | Topeka, KS | 14.5 | 1.0 |
| | 10/5/12 | Attorney General's Call, KSAG | Manhattan, KS | 3.0 | 1.0 |
| | 10/10/12 | Professional Responsibility: Confidentiality and Privilege, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 10/19/12 | Public Service Advocacy Skills, NITA | | 18.0 | |
| | 1/25/13 | Evidence Procedures, KSAG | Topeka, KS | 2.5 | 1.0 |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 5/31/13 | Attorney General's CLE Seminar, KSAG | Topeka, KS | 3.0 | |
| | 6/25/13 | KORA/KOMA, KSAG | Topeka, KS | 1.0 | |
| Phil McManigal | 7/12/12 | Revised Performance Standards, NAMFCU | Colorado, Springs, CO | 1.0 | |
| | 7/12/12 | Managed Care Fraud Schemes, NAMFCU | Colorado Springs, CO | 1.0 | |
| | 7/12/12 | Managing Case Loads, Requests, Referrals, NAMFCU | Colorado Sprigs, CO | 3.5 | |
| | 7/12/12 | Working with OIG, NAMFCU | Colorado Springs, CO | 1.0 | |
| | 7/13/12 | Budget, Indirect Costs, Global Funds, NAMFCU | Colorado Springs, CO | 2.0 | |
| | 7/13/12 | New Fraud Schemes, | Colorado | 1.0 | |



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|---------------------|----------|---|----------------------|-----------|-------|
| | | NAMFCU | Springs, CO | | |
| | 7/13/12 | Reverse False Claims, NAMFCU | Colorado Springs, CO | .5 | |
| | 8/15/12 | Kansas Capital Fraud Conference | Topeka, KS | 16.0 | |
| | 9/14/12 | Firearms Training | Holton, KS | 4.0 | |
| | 11/16/12 | Firearms Training | Holton, KS | 4.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 12/11/12 | Management Sexual Harassment Training, KSAG | Topeka, KS | 1.0 | |
| | 1/7/13 | Firearms Training | Holton, KS | 3.0 | |
| | 1/18/13 | Firearms Qualifications | Holton, KS | 2.0 | |
| | 1/23/13 | In Person Report Training, KSAG | Topeka, KS | 2.0 | |
| | 1/24/13 | Evidence Control Procedure, KSAG | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 4/17/13 | Biased Based Policing | Topeka, KS | 1.0 | |
| | 5/17/13 | Firearms Training | Holton, KS | 2.0 | |
| Darren Brown | 8/15/12 | Kansas Capital Fraud Conference | Topeka, KS | 16.0 | |
| | 9/21/12 | Firearms Training | Holton, KS | 2.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/7/13 | Firearms Training | Holton, KS | 3.0 | |
| | 1/18/13 | Firearms Qualifications | Holton, KS | 2.0 | |
| | 1/24/13 | Evidence Control Procedure, KSAG | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |



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|----------------------|----------|--|--------------|-----------|-------|
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 4/10/13 | Legal Updates | Topeka, KS | 2.0 | |
| | 4/10/13 | Biased Based Policing | Topeka, KS | 1.0 | |
| | 5/17/13 | Firearms Training | Holton, KS | 7.0 | |
| | 6/20/13 | Recognizing and Responding to Persons with Mental Illness for Law Enforcement Officers | Hiawatha, KS | 7.0 | |
| Mark Montague | 8/15/12 | Kansas Capital Fraud Conference | Topeka, KS | 16.0 | |
| | 9/14/12 | Firearms Training | Holton, KS | 4.0 | |
| | 11/16/12 | Firearms Training | Holton, KS | 4.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/7/13 | Firearms Training | Holton, KS | 3.0 | |
| | 1/18/13 | Firearms Qualifications | Holton, KS | 2.0 | |
| | 1/23/13 | In Person Report Training, KSAG | Topeka, KS | 2.0 | |
| | 1/24/13 | Evidence Control Procedure, KSAG | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 4/17/13 | Biased Based Policing | Topeka, KS | 1.0 | |
| | 5/17/13 | Firearms Training | Holton, KS | 7.0 | |
| | 5/21/13 | Patricia Kimmi Case Study | Lawrence, KS | 4.0 | |
| | 5/21/13 | JFK Assassination | Lawrence, KS | 3.5 | |
| | 5/22/13 | Legal Updates | Lawrence, KS | 2.0 | |
| | 5/22/13 | Death Scene Checklist | Lawrence, | 3.5 | |



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|----------------------|----------|--|--------------|-----------|-------|
| | | and CSI Gizmos | KS | | |
| | 5/22/13 | Forensic Workshop and Crime Lab Updates | Lawrence, KS | 6.5 | |
| | 5/22/13 | Defense Attorney | Lawrence, KS | 2.0 | |
| Terry Symonds | 8/15/12 | Kansas Capital Fraud Conference | Topeka, KS | 16.0 | |
| | 9/14/12 | Firearms Training | Holton, KS | 4.0 | |
| | 9/19/12 | Management and Control of Evidence | Dubuque, IA | 2.0 | |
| | 9/19/12 | Rx Drug Abuse and Identification | Dubuque, IA | 2.0 | |
| | 9/19/12 | The Dark Side of Digital Technology | Dubuque, IA | 2.0 | |
| | 9/20/12 | Sticks and Stones: Cyberbullying1 | Dubuque, IA | 3.0 | |
| | 9/20/12 | Social Networking as an Investigative Tool | Dubuque, IA | 2.0 | |
| | 9/20/12 | Beyond Survival Toward Officer Wellness | Dubuque, IA | 2.0 | |
| | 11/16/12 | Firearms Training | Holton, KS | 4.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/7/13 | Firearms Training | Holton, KS | 3.0 | |
| | 1/18/13 | Firearms Qualifications | Holton, KS | 2.0 | |
| | 1/24/13 | Evidence Control Procedure, KSAG | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 4/10/13 | Case Review of Brenna Morgart | Topeka, KS | 4.0 | |



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| ATTENDEE | DATE | TRAINING & SPONSOR | LOCATION | TOTAL HRS | ETHCS |
|------------------------|----------|---|---------------|-----------|-------|
| | 4/17/13 | Biased Based Policing | Topeka, KS | 1.0 | |
| Dave Unger | 8/15/12 | Kansas Capital Fraud Conference | Topeka, KS | 16.0 | |
| | 9/14/12 | Firearms Training | Holton, KS | 4.0 | |
| | 11/16/12 | Firearms Training | Holton, KS | 4.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/7/13 | Firearms Training | Holton, KS | 3.0 | |
| | 1/18/13 | Firearms Qualifications | Holton, KS | 2.0 | |
| | 1/23/13 | In Person Report Training, KSAG | Topeka, KS | 2.0 | |
| | 1/24/13 | Evidence Control Procedure, KSAG | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 4/17/13 | Biased Based Policing | Topeka, KS | 1.0 | |
| | 5/21/13 | Patricia Kimmi Case Study | Lawrence, KS | 4.0 | |
| | 5/21/13 | JFK Assassination | Lawrence, KS | 3.5 | |
| Corey Richmeier | 10/25/12 | Impact Munitions 12 Gauge Less Lethal, CTS Training Institute | Ft Scott, KS | 2.0 | |
| | 12/10/12 | Bloodborne Pathogens | Ft Scott, KS | 1.0 | |
| | 12/11/12 | Slip, Trips and Falls | Ft Scott, KS | 1.0 | |
| | 1/18/13 | Firearms Qualifications | Holton, KS | 2.0 | |
| | 1/23/13 | In Person Report Training, KSAG | Topeka, KS | 2.0 | |
| | 1/24/13 | Evidence Control Procedures, KSAG | Topeka, KS | 3.0 | |
| | 2/25/13 | Interview and Interrogation, KLETC | Hutchison, KS | 28.00 | |



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|---------------------|----------|--|--------------|-----------|-------|
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 4/17/13 | Biased Based Policing | Topeka, KS | 1.0 | |
| | 5/17/13 | Firearms Training | Holton, KS | 7.0 | |
| | 5/21/13 | Patricia Kimmi Case Study | Lawrence, KS | 4.0 | |
| | 5/21/13 | JFK Assassination | Lawrence, KS | 3.5 | |
| Cam McKinney | 10/1/12 | Annual Training Program, NAMFCU | New York, NY | 21.0 | |
| | 10/10/12 | Professional Responsibility: Confidentiality and Privilege, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/23/13 | Authenticare Report Training (HCBS) | Topeka, KS | 3.0 | |
| | 1/24/13 | Evidence Control Procedures, KSAG | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| Mark Knight | 10/10/12 | Professional Responsibility: Confidentiality and Privilege, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 10/25/12 | Authenticare | Topeka, KS | 1.5 | |
| | 11/16/12 | Seminar for Government Attorneys, KS Dept of Admin | Topeka, KS | 6.0 | 1.0 |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |



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| ATTENDEE | DATE | TRAINING & SPONSOR | LOCATION | TOTAL HRS | ETHCS |
|-----------------------|----------|---|-------------------|-----------|-------|
| | 1/23/13 | Authenticare Report Training (HCBS) | Topeka, KS | 3.0 | |
| | 1/24/13 | Evidence Control Procedure, KSAG | Topeka, KS | 2.5 | |
| | 1/29/13 | Time & Labor Training, KSAG | Topeka, KS | .5 | |
| | 2/8/13 | Watergate II – Cancer on the Presidency, US Attorney’s Office | Topeka, KS | 3.0 | 3.0 |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| | 6/25/13 | KORA/KOMA, KSAG | Topeka, KS | 1.0 | |
| Cynthia Ludwig | 9/15/12 | Annual Conference, NAMPI | Oklahoma City, OK | 21.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/23/13 | Authenticare Report Training (HCBS) | Topeka, KS | 3.0 | |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 2/25/13 | MFCU 101, NAMFCU | Santa Fe, NM | 21.0 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |
| Quincie Ingram | 8/15/12 | Kansas Capital Fraud Conference | Topeka, KS | 16.0 | |
| | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/25/13 | Evidence Procedures, KSAG | Topeka, KS | 2.5 | 1.0 |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 2/25/13 | MFCU 101, NAMFCU | Santa Fe, NM | 21.0 | |
| | 4/9/13 | Governmental Ethics, | Topeka, KS | 1.0 | 1.0 |



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|-------------|----------|---------------------------------------|------------|-----------|-------|
| | | KSAG | | | |
| Rachel Eddy | 12/11/12 | Prevention of Sexual Harassment, KSAG | Topeka, KS | 1.0 | |
| | 1/25/13 | Evidence Procedures, KSAG | Topeka, KS | 2.5 | 1.0 |
| | 2/12/13 | Computer Ethics | Topeka, KS | .5 | |
| | 4/9/13 | Governmental Ethics, KSAG | Topeka, KS | 1.0 | 1.0 |



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Appendix D 2012-13 Presentations

| PRESENTER | DATE | EVENT | TITLE | PEOPLE |
|----------------------------------|------------|---|---|--------|
| Stefani Hepford Mark Montague | 7/26/2012 | DHCF Cross- Training Event | The Kansas Medicaid Fraud and Abuse Division | 9 |
| Loren Snell | 9/12/2012 | Salvation Army Life Skills | Medicaid Fraud in Kansas | 13 |
| Stefani Hepford | 10/12/2012 | Elder Law Conference, Kansas Bar Association | Hot Topics in Elder Law | 73 |
| Loren Snell | 3/7/2013 | AAPC-Wichita Chapter Monthly Meeting | Fraud in Coding | 58 |
| Loren Snell | 3/13/2013 | Kansas Adult Care Home Executives Spring Conference | Update on Resident Abuse Initiatives | 111 |