Office of Medicaid Inspector General

Annual Report

2024

Office of Kansas Attorney General
Kris W. Kobach

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Letter from the Inspector General

January 31, 2025

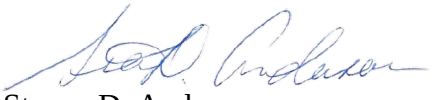
Dear Fellow Kansans:

It is our pleasure to submit the annual report of the Medicaid Inspector General within the Office of Attorney General Kris W. Kobach for calendar year 2024. This report is issued in accordance with K.S.A. 75-7427(i) and is respectfully submitted to:

- The Citizens of the State of Kansas
- Governor Laura Kelly
- Members of the Kansas Senate Committee on Ways and Means
- Members of the Kansas House of Representatives Committee on Appropriations
- Kansas Department of Health and Environment Secretary Janet Stanek
- Kansas Department for Aging and Disability Services Secretary Laura Howard
- Legislative Post Auditor Chris Clarke
- Kansas Attorney General Kris W. Kobach

This report provides an overview of the Kansas Medicaid Inspector General's Office and describes the office's activities during calendar year 2024. We welcome any comments or questions you may have regarding this report or our operations.

Respectfully submitted,



Steven D. Anderson
Medicaid Inspector General

Introduction

The Office of Medicaid Inspector General (OMIG) is charged with overseeing the Kansas Medicaid program (KanCare), the MediKan program, and the State Children's Health Insurance Program (SCHIP). K.S.A. 75-7427(b)(1) states that the purpose of the OMIG is: "*to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight . . . and to assist in improving agency and program operations and in deterring and identifying fraud, waste, abuse and illegal acts.*" The same statute requires the Medicaid inspector general to be "*independent and free from political influence*" in performing the duties of the position.

The OMIG is an independent division of the Kansas Attorney General's Office. In accordance with K.S.A. 75-7427(b)(1), *all budgeting, purchasing, related management functions and personnel are administered under the direction and supervision of the attorney general*. In accordance with K.S.A. 75-7427(l), *the scope, timing, and completion of all audits and investigations conducted by the OMIG shall be within the discretion of the Medicaid inspector general*.

Mission Statement: Conduct audits, investigations, and performance reviews to increase accountability, integrity, and oversight of Kansas Medicaid related programs; assist in improving agency and program operations; and in deterring and identifying fraud, waste, abuse, and illegal acts.

Vision: Pursue positive changes in Kansas Medicaid related programs to better serve the citizens of Kansas.

Goals:

- Prevent, detect, and deter fraud, waste, abuse, and illegal acts
- Identify funds for recovery or recoupment
- Provide suggestions for improving efficiency, effectiveness, and integrity
- Identify and refer criminal/civil matters for prosecution
- Foster sound financial practices and reduction of improper payments

OMIG History

In 2007, Senate Bill 11 created the Office of Inspector General within the Kansas Health Policy Authority (KHPA). The original statutory provisions contained in that bill remain virtually unchanged today.

In 2011, Executive Reorganization Order No. 38 abolished the KHPA and transferred all powers, duties, and functions of the KHPA to the Division of Health Care Finance within the Kansas Department of Health and Environment (KDHE). The OMIG was transferred to KDHE as part of that Executive Reorganization Order.

In January 2014, the last Senate confirmed inspector general under KDHE left their position and the last OMIG staff member left in November 2014. This began a period of the OMIG being vacant until October 2018.

In 2017, Senate Bill 149 transferred the OMIG from KDHE to the attorney general's office effective June 1, 2017. On October 9, 2018, the Senate Confirmation Oversight Committee voted to authorize Sarah Fertig, the attorney general's first nominee for the Medicaid inspector general position, to exercise the powers of the office pending confirmation by the full Senate. Fertig was confirmed by the full Senate in January 2019.

Following Fertig's resignation from the position in July 2020, former Attorney General Derek Schmidt nominated Steven Anderson to be the next Medicaid inspector general on January 21, 2021. On April 6, 2021, Anderson was confirmed as the new Medicaid inspector general by the Senate. Anderson continues to serve as Medicaid inspector general.

OMIG Staffing

Between January and June 2019, the OMIG had one staff member, the Medicaid inspector general. The OMIG hired an auditor in June 2019 and a data analyst in February 2020.
The OMIG began the process of recruiting a new Medicaid inspector general in July 2020 due to the resignation of the former inspector general. In the interim, former Attorney General Derek Schmidt appointed Jay Scott Emler (former Deputy Attorney General/Chief Information Security Officer) to serve as the administrator for OMIG.

Steven Anderson was appointed on January 21, 2021, and confirmed by the full Senate on April 6, 2021.

A part-time secretary was hired August 23, 2021.

Two auditors were added at the end of FY 2022 and employment began on June 13, 2022. They were a critical addition to the OMIG's ability to fulfill part of its core missions of auditing and performance reviews. Two full-time special agents and a financial analyst to conduct investigations of Medicaid eligibility fraud were added beginning FY 2024 in July 2023. An investigator to assist with investigations was added in October 2024. Anderson was reappointed by Attorney General Kobach on December 6, 2024.

The OMIG currently consists of the IG, three auditors, two analysts, two special agents, one investigator, and a part-time investigative assistant.

Summary of OMIG Activities

Detecting and Preventing Fraud, Waste, Abuse, and Illegal Acts

K.S.A. 75-7427(k)(1) requires the Medicaid inspector general to "make provision to solicit and receive reports of fraud, waste, abuse, and illegal acts." To that end, the attorney general's office created a dedicated email address, MedicaidIG@ag.ks.gov, that concerned citizens may use to submit such reports. The attorney general's office also offers an online form which can be used to report suspected fraud, waste, abuse, and illegal acts related to the programs within the OMIG's jurisdiction.

K.S.A. 75-7427(k)(1) also required that the inspector general shall not disclose or make public the identity of any person or persons who provide such reports pursuant to this subsection unless such person or persons consent in writing to the disclosure of such person's identity. Disclosure of the identity of any person who makes a report pursuant to this subsection shall not be ordered as part of any administrative or judicial proceeding.

Fraud, Waste, and Abuse Training

In cooperation with KDHE, the OMIG developed fraud, waste, and abuse awareness training to be provided to KDHE and contract employees. This calendar year, we conducted 14 virtual and in person training sessions to 339 people. The training is offered on an annual basis to KDHE employees and contract employees. Some sessions are open to the public. We also provided a recorded version of the training session that can be delivered as needed to staff. The purpose of the training is to ensure everyone is better prepared to identify fraud, waste, and abuse and how to report it.

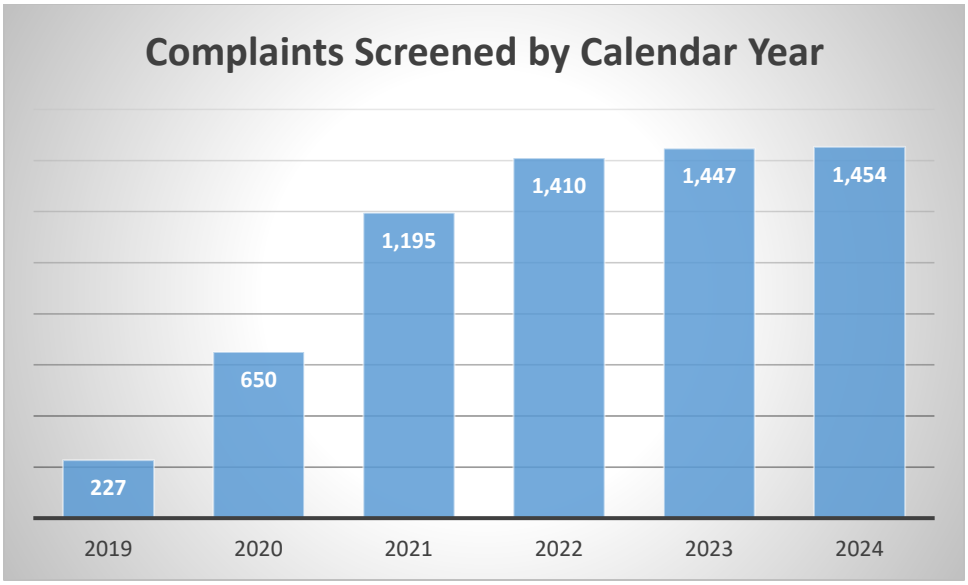
National Provider Identifier Number Concern

A preliminary finding during our audit of Medicaid payments to Kansas School Districts found that a school district employee obtained a National Provider Identifier (NPI) number that was used on claims submitted for payment for Medicaid services. This NPI should belong to the physician who is referring the child for services. The employee had no medical affiliation and left employment of the school several years ago; however, the school continued to use the NPI number on claims. Over $390,000 in claims using the invalid NPI were paid by the State of Kansas via fee for service. An NPI is a unique 10-digit identification number issued to health care providers in the United States by the Centers for Medicare and Medicaid Services (CMS). It is noted on the NPI Registry site that "Issuance of an NPI does not ensure or validate that the Health Care Provider is licensed or credentialed."

This audit and prior review work on COVID-19 test kit claims has identified an interesting issue. In the COVID-19 test kit review, we found that 11 providers billed for 32% of the kits and 9 of them registered for their NPI numbers after March 2020 and were likely fictitious companies. Our research of the issue indicates that CMS does not check the validity or credentials of the person or entity requesting a number. This is reinforced by the statement on the NPI Registry site noted above. We plan to do a test of NPI numbers associated with paid claims to determine the extent of this issue in Kansas.

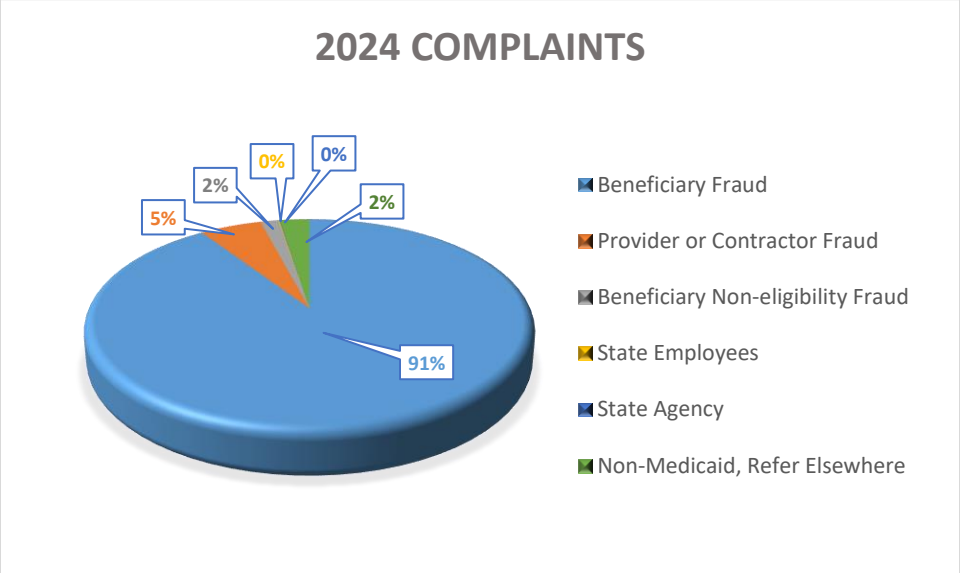
Complaints of Fraud, Waste, Abuse, and Illegal Acts

The OMIG continues to oversee an increasing number of complaints of fraud, waste, abuse, and illegal acts concerning the Kansas Medicaid program (KanCare), the MediKan program, and the State Children's Health Insurance Program (SCHIP). The majority of complaints received are submitted by the Kansas Department for Children and Families (DCF) and primarily allege beneficiary eligibility fraud. OMIG staff currently screens each complaint received for substance and jurisdiction. If staff determine there is a need for eligibility clarification, the complaint is forwarded to the KanCare Clearinghouse for review and possible follow-up. The number of complaints processed each calendar year are represented in the bar chart below.



As noted above, in CY 2023, OMIG processed 1,447 complaints with 1,377 complaints involving allegations of beneficiary eligibility fraud. There were 38 of these complaints that after reviewing the matter did not involve Medicaid and were referred to the correct agency. There was one complaint involving a state agency and two involving state employees. There were also 14 allegations of beneficiaries committing non-eligibility frauds. The remaining 53 complaints involved allegations involving providers and contractors.

In CY 2024, OMIG processed 1,454 complaints with 1,318 complaints involving allegations of beneficiary eligibility fraud. There were 36 of these complaints that after reviewing the matter did not involve Medicaid and were referred to the correct agency. There was one complaint involving a state agency and one involving a state employee. There were also 22 allegations of beneficiaries committing non-eligibility frauds. The remaining 76 complaints involved allegations involving providers and contractors.



The breakdown for how the complaints for CYs 2022, 2023, and 2024 were handled are in the chart below. It must be noted that the public health emergency (PHE) impacted the determination for many allegations. For example, allegations of being over income during the PHE were not considered fraud due to rules in place at the time. The "No Fraud/Jurisdiction" determination is based on our preliminary review of the matter. The referrals sent to the Clearinghouse for additional review may result in additional determinations of no fraud or possible fraud. If staff at the Clearinghouse and KDHE determine there are indications of fraud, they will refer the information back to OMIG for further consideration. OMIG investigative staff came on board in July of 2023. They are addressing the backlog of open cases and processing new allegations as they are received.

Calendar Year	Complaints Screened	Eligibility Complaints	Sent for Review (CH)	No Fraud/ Jurisdiction	Investigations Opened	Referred to Other Offices
2022	1,410	1,347	1,059	221	27	40
2023	1,447	1,377	1,048	191	112	70
2024	1,454	1,318	1,035	214	105	100

CY 2024 Oversight Activities

The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight is a standing committee of the Kansas State Legislature. The OMIG has ongoing interaction with the committee to ensure that policy makers are aware of the strengths and vulnerabilities in the Medicaid, MediKan, and SCHIP programs.

In CY 2024, the OMIG attended a total of four committee meetings. During each meeting, the OMIG presented reports from completed work and updates of the OMIG's current activities to the committee. Listed below are the dates of each meeting along with a short description of each activity that was presented to members of the committee.

ID	Date of Meeting	Subject	Type	Formal Report Issued	Report No.
1	02/02/24	Interim report on School District Fingerprinting processes and recommendations	Interim Audit	Yes	N/A
		Prior authorization process for Medicaid recipients in Kansas	Audit	No	N/A
		Continuing Care Retirement Communities	Audit	No	No
2	06/24/24	Continuing Care Retirement Communities report issued	Audit	Yes	24-03
		Update on Prior authorization process for Medicaid recipients	Audit	No	N/A
		Update on Medicaid payments made to Kansas Public Schools	Audit	No	N/A
3	08/26/24	Update on Prior authorization process for Medicaid recipients	Audit	No	N/A
		Update on Medicaid payments made to Kansas Public Schools	Audit	No	N/A
4	10/23/24	Update on Prior authorization process for Medicaid recipients	Audit	No	N/A
		Update on Medicaid payments made to Kansas Public Schools	Audit	No	N/A

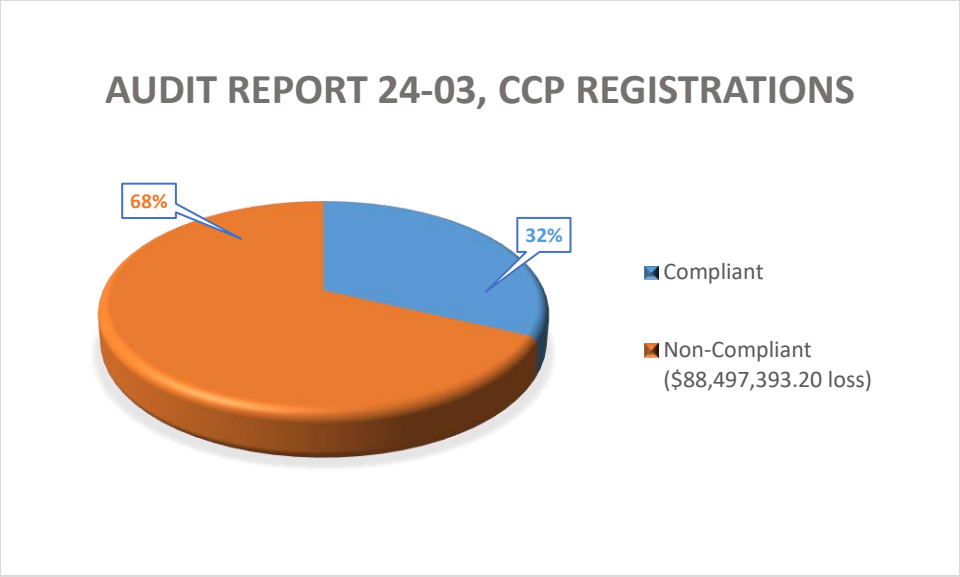
The OMIG released one audit report in calendar year 2024. This report, summarized below, can be accessed at https://ag.ks.gov/divisions/medicaid-inspector-general.

Continuing Care Retirement Communities, Audit Report 24-03

The audit report detailed four observations, nine findings, and made 19 recommendations from our performance audit of the processing of Continuing Care Retirement Communities (CCRC) and Continuing Care Provider (CCP) applications. The audit includes an assessment of the eligibility for a reduced rate of the nursing facility provider tax (also known as bed tax or bed assessments) for any CCP registration certificate holder per K.S.A. 40-2231 through K.S.A 40-2238 and K.S.A. 75-7435.

The scope of our audit included all CCP registrations processed by the Kansas Department of Insurance (KDOI) from July 1, 2020, through August 31, 2023. K.S.A. 40-2235 requires any provider that acts as a CCP or operates a CCRC to hold a CCP certificate of registration. CCP registration certificates are issued to providers who complete the established application process managed by KDOI.

The audit results revealed **68%** of CCP registration certificates issued to Skilled Nursing Facilities (SNF) from July 1, 2020 through August 31, 2023, by KDOI, were not in compliance with K.S.A. 40-2231 through K.S.A. 40-2238. The primary cause for not being in compliance was the lack of an annual audit report from a certified public accountant. Due to SNFs being improperly issued CCP registrations, the State of Kansas lost Quality Care Assessment (QCA) revenue of **$87,121,090.** This resulted in additional loss of QCA Fund interest earnings revenue of an estimated **$1,376,303.20**. The incomplete applications for CCP registrations resulted in a loss of QCA revenue totaling **$88,497,393.20**.



According to the bed tax data files provided by KDADS, **420** QCAs completed for SFY 2021-2024 were identified for SNFs claiming to be part of a CCRC, that required proof of CCP registration for the reduced QCA rate, and did not otherwise qualify for the reduced QCA rate as a small SNF or a high Medicaid volume SNF. The **420** QCAs completed for the CCRCs that required proof of CCP registration were compared to the Adult Care Directory on the KDADS agency website. If the CCRC populated two or more facility types when researched in the directory, the CCRC was considered to have met the definition of a CCP per K.S.A. 40-2231(d). Of **420** QCAs completed for the CCRCs that required proof of CCP registration, we identified **205** QCAs that only populated a single facility type as "Nursing Facility" when researched in the directory. This meant only SNF beds were located at the CCRC.

If we could not locate any verification that a continuum of care (either independent living or assisted living/residential healthcare in combination with the skilled nursing care) could be provided on the site/campus, we considered the CCRC to have not met the definition of a CCP per K.S.A. 40-2231(d). Our review revealed that **96, or 24%,** of the QCAs completed for CCRCs were incorrectly assessed at the reduced QCA rate. Although they were issued certificates of CCP registration by KDOI, there was no evidence that these self-attested CCRCs were providing continuing care per K.S.A. 40-2231(d).

Currently, the Kansas statutes do not further define the meaning of "continuing care." A clear definition is needed to allow program officials to accurately verify the facility is providing "continuing care." The lack of clarity within the statute definition of a CCP has resulted in additional loss to the State's QCA revenue. Concerns of potential fraud involving the QCA revenue have been expressed due to nursing facilities seemingly taking advantage of this unclear definition of a CCRC. A recommendation was provided to the Kansas Legislature for statute updates to include a clear definition of a CCRC.

The ambiguity in Kansas statutes for the definition of "continuing care" as it relates to CCPs, combined with the lack of appropriate oversight by KDOI and KDADS, allowed SNFs to continue to be assessed at the reduced QCA rate by simply claiming CCRC status. This has resulted in an estimated **$33,374,400** loss of QCA revenue to the State for SFYs 2021-2024. By following updated statutes and recommendations from OMIG, the State of Kansas will save an estimated **$12,274,090.00** each year by properly assessing 37 facilities as not being CCRCs and using the proper QCA of **$4,098.00** instead of the incorrect amount of **$818.00** per bed.

Statistics Required by Statute

K.S.A. 75-7427(i) requires the inspector general to include the following information in this annual report:

Aggregate provider billing and payment information.

The OMIG has obtained the following FY 2024 aggregate provider billing and payment information from KDHE's website.
Total Medicaid provider payments: $5,510,409,877.00
Total MediKan provider payments: $5,989,614.00
Total SCHIP provider payments: $138,749,759.00
KanCare Capitation Payments:

Total Medicaid managed care capitation payments: $4,650,275,530.00
Total SCHIP managed care capitation payments: $135,150,109.00

The number of audits of Medicaid, MediKan, and SCHIP and the dollar savings, if any, resulting from those audits.

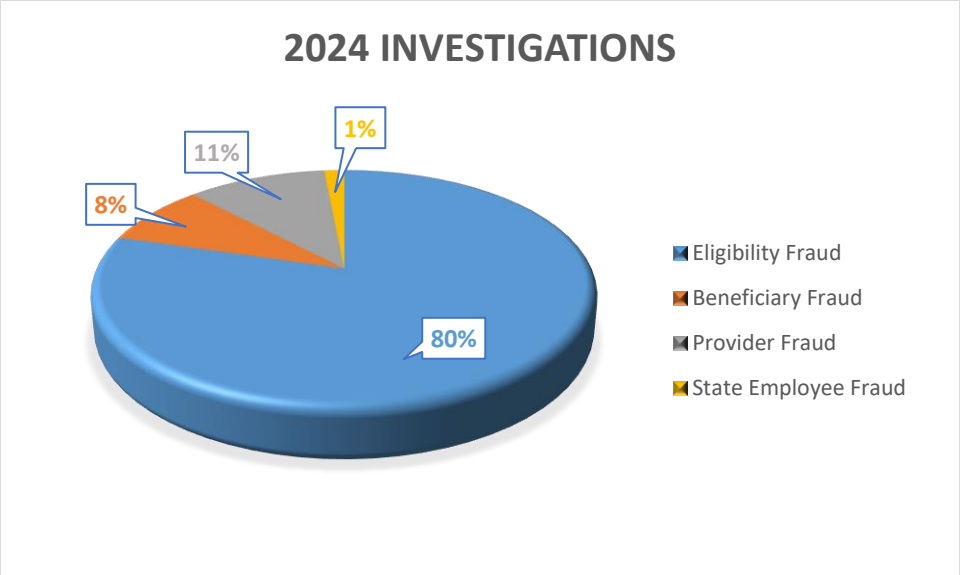
One audit report was published and released in CY 2024. A summary of the report is detailed above. OMIG identified $87,121,090 in wasteful spending, $12,274,090 in potential savings, 4 observations, 9 findings, and made 19 recommendations.

Health care provider sanctions, in the aggregate, including terminations and suspensions.

No providers were sanctioned as a result of OMIG activities in CY 2024.

A detailed summary of the investigations undertaken in the previous fiscal year.

During FY 2024, the OMIG continued to focus the majority of its attention on audits and reviews. The OMIG was able to add two special agents and an analyst to conduct investigations for FY 2024. OMIG opened 132 investigations in FY 2024, with 105 of the investigations involving Medicaid eligibility fraud, 11 involving other beneficiary fraud, 14 involving Medicaid providers, and 2 involving State of Kansas Employees. Three of these cases have been submitted for prosecution.



OMIG closed 37 of the cases, with 16 of them closed with the allegation disproven. Nine were also closed due to insufficient evidence being available to develop the case further. Four cases were closed after our investigation determined that the beneficiary remained on Medicaid due to agency error. The remaining eight cases were referred to other offices for potential administrative action. Our investigations also resulted in Medicaid benefits being terminated for individuals that were not qualified for Medicaid resulting in a one-year savings of $87,416.20.