

MEDICAID FRAUD CONTROL UNIT

OFFICE OF ATTORNEY GENERAL

EST. AUGUST 2019

LAW ENFORCEMENT
AGENCY

HEALTH OVERSIGHT
AGENCY

PROVIDER

NOT RECIPIENT

When MFCU can investigate a case:

- When there is billing fraud by a Medicaid provider
- If a Medicaid recipient is abused, neglected, or exploited financially AND there is a Medicaid nexus – Medicaid application, facility that accepts Medicaid
- If a provider, that accepts Medicaid payments, abuses, neglects, exploits, or harms a patient, whether that patient receives Medicaid or not

Medicaid ~~Medicare~~

Medicaid is health care coverage for low income families & individuals

ND spent \$648 million on Medicaid in 2020 – roughly \$1.3 billion a biennium

10-14% of ND population covered by Medicaid – 70,000 households & 125,000 individuals

More than 29,000 providers in ND

Fraud per year nationally 1%-2% of the Medicaid expenditures - or 6.5 million per year in ND (1%)

TYPES OF INVESTIGATIONS

- Billing for services/medication not provided
- Billing for more than 24 hours in a day
- Not having documents/records to support the billing
- Billing while on vacation
- Billing a more expensive service than actually provided
- Billing for unlicensed professional care
- Billing for valueless services
- Abuse or neglect of patients (assaults, homicides, GSI, theft)
- Drug Diversion – Opioid Overprescribing

HB 1435

new criminal statute

- This statute creates a new crime. This new crime addresses situations that the MFCU sees very often when investigating cases. MFCU has experienced several providers who do not have or have failed to provide records or documentation to support the Medicaid dollars they billed and were paid.
- Another way of saying this is that some providers are receiving money from the state Medicaid program without actually documenting that the purported services were provided or providing proof that the services were provided.
- That's a big problem because it stops MFCU's and DHHS's ability to audit or investigate fraud. If records are not provided, then no one can see that fraud is occurring. This benefits fraudulent providers. The new crime detailed in HB 1435 would remedy that.

HB 1435

new criminal statute

- All responsibilities required in HB 1435 are already required by DHHS. This bill does **not** add requirements it only penalizes those providers that do not comply with the requirements already in place.
- Providers when they agree to provide services and get paid by Medicaid are already required by a DHHS provider agreement to create records at the time the services are provided, maintain those records for 7 years and provide those records to DHHS when asked to do so.
- This bill uses the same criminal offense grading system that is already used for the other Medicaid fraud crimes in NDCC 50-24.8-11 and other crimes of theft.
- Consequences of subsections 6 and 7 are also already codified and used for the other Medicaid fraud crimes.
- MFCU wanted to be fair to those providers who for good reason no longer had records due to a natural disaster or because of an act that they had no control over, so an affirmative defense was added.



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

MARINA SPAHR
ASSISTANT ATTORNEY GENERAL
DIRECTOR MFCU

MEDICAID FRAUD CONTROL UNIT
PO BOX 2495
BISMARCK, ND 58502-2495

701-328-5532
E-MAIL: mspahr@nd.gov
WEBSITE: www.attorneygeneral.nd.gov