

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 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 1434

technical amendments

- When this statute was initially drafted no one in the state was certain how MFCU would actually conduct investigations and how subpoenas would be used.
- MFCU investigates both civil and criminal cases not just civil.
- Most other states' MFCUs have subpoena powers that are used for any type of investigation.
- Sections were deleted that do not apply.
- Biggest change is clarifying that the information received pursuant to a subpoena is confidential but can be shared with other law enforcement agencies or investigative partners.

HB 1434

technical amendments

- Clarifies that MFCU can receive exempt and confidential records pursuant to an administrative subpoena.
- Also adds that there is no penalty for providing exempt and confidential information. However, the language I first proposed is not clear enough. I believe an amendment needs to be made to subsection 4 of the bill to read **“Disclosure pursuant to this section is not a violation of N.D.C.C. 12.1-13-01.”**
- For example, if a state board provides confidential information, they will not face liability for providing those records to MFCU pursuant to an administrative subpoena. If a suspect provides records pursuant to an administrative subpoena, they may still be liable for criminal conduct or civil false claims fraud.



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