



ALASKA DEPARTMENT OF HEALTH AND
ALASKA DEPARTMENT OF LAW

JOINT LEGISLATIVE REPORT

Fraud, Waste, Abuse
Payment and Eligibility Errors

November 2022

ALASKA DEPARTMENT OF HEALTH AND ALASKA DEPARTMENT OF LAW

JOINT LEGISLATIVE REPORT

The Department of Law (DOL) and the Department of Health (DOH) have prepared this joint report, as required by AS 47.07.076. This report provides a high-level review of the efforts of both departments to combat fraud, waste, and abuse in the Alaska Medicaid program. This report includes only FY 2022 activity and does not repeat information included in the report filed on November 15, 2021.

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Positions and Programs Dedicated to Fraud, Waste, and Abuse (Number of Positions and Funding Sources)

DEPARTMENT OF LAW:

Criminal Division - Medicaid Fraud Control Unit (MFCU):

Funding: 75% federal and 25% State General Fund

- Attorneys – 3
- Accountant – 1
- Investigators – 6
- Law Office Assistant – 1
- Paralegal – 1

Civil Division

Funding: 50% federal and 50% State General Fund

- Attorneys – 1.25 attorneys
- Paralegal – .5
- Other (Law Office Assistant) – .25

DEPARTMENT OF HEALTH

Funding: 50% federal and 50% State General Fund

Office of the Commissioner – Program Integrity Office

The Medicaid Program Integrity Office has statewide responsibility for management and oversight of independent contract audits required by AS 47.05.200; coordination of Medicaid Integrity Program audits; the contact and referral process for the Department of Law (DOL) – Medicaid Fraud Control Unit (MFCU); management of the payment suspension process including those resulting from credible allegations of fraud; conducting medical assistance claims reviews and audits; supporting provider appeals; providing technical assistance and collaboration on internal reviews of programs and processes for other divisions; serving as compliance officer contact for Centers for Medicare and Medicaid Services (CMS); assisting and coordinating efforts of divisional quality assurance units; coordination with the department audit committee; payment error rate measurement coordination; provider overpayment recovery and reporting, coordination of provider sanctions; and provider self-audit administration.

The Program Integrity Office is also responsible for all recovery audits under the Patient Protection and Affordable Care Act, the Health Information Technology and Economic and Clinical Health Act, and the Improper Payment Information Act, and for maintaining the Alaska excluded provider list.

Number of Positions and FY 2022 Funding:

- Anchorage staff: 6
- FY 2022 component budget: \$1,079,192

Division of Public Assistance - Fraud Control Unit

The Division of Public Assistance (DPA) Fraud Control Unit (FCU) has statewide responsibility for the welfare fraud deterrent effort. Fraud case referrals often involve benefits received from one or more state programs. Most commonly, these include Alaska Temporary Assistance Program (TANF), the Supplemental Nutrition Assistance Program (SNAP), Alaska Medicaid Program, Adult Public Assistance (APA), Child Care Assistance Program, and the Senior Benefits Program. The federal Public Health Emergency (PHE) has prohibited most Medicaid investigations from moving forward which impacted the total recoveries associated with the Medicaid program.

Number of Positions and FY 2022 Funding:

The DPA FCU unit currently has 14 total staff members:

- Anchorage: 10
- Fairbanks: 1
- Kenai: 1
- Wasilla: 2
- FY 2022 fraud investigation component budget: \$2,412,900

DPA also has claims collection staff located in Juneau to pursue debt collection.

Division of Senior and Disabilities Services - Quality Assurance Unit

The Division of Senior and Disabilities Services (SDS) Quality Assurance Unit (QAU) has statewide responsibility for the health and welfare of recipients through the monitoring and oversight of service to participants and their family. The QAU collaborates with stakeholders and other DOH agencies to investigate fraud. The QAU activities include critical incident report review, investigations, remediation reporting, SDS fair hearings, mortality review, the creation of service authorizations, and utilization review. The QAU utilizes a variety of tools to correct provider non-compliance, including technical assistance and training, corrective action requests or plans, or sanctions depending on the seriousness of the non-compliance.

Number of Positions and FY 2022 Funding:

- Anchorage Staff: 16
- FY 2022 component budget: \$1,902,670

Quality Assurance Unit is fully staffed at this time.

Division of Health Care Services - Quality Assurance Unit

The Division of Health Care Services (HCS) Quality Assurance Unit (QAU) is responsible for provider enrollment, surveillance and utilization review, the Care Management Program (CMP), the Alaska Medicaid Coordinated Care Initiative (AMCCI), and fair hearings. Overall, the unit is responsible for ensuring that state and federal enrollment guidelines are followed on the front end of the Alaska Medicaid Program, and that both providers and beneficiaries are exhibiting appropriate behaviors at the end of the Alaska Medicaid spectrum. For providers, this entails post-payment claims review.

For members, this entails pattern analysis to ensure medical necessity and continuity of care. The HCS - QAU generally takes an educational/informational approach to correcting provider behaviors and collaborates with the DOH Program Integrity Office and the Department of Law - MFCU for cases that warrant further investigation and escalation.

Number of Positions and FY 2022 Funding:

- Anchorage Staff: 9
- FY 2021 component budget: \$1,200,000

The HCS – QAU currently has two vacant PCNs.

Division of Behavioral Health Medicaid Provider Assistance Services Section

The Division of Behavioral Health (DBH) Medicaid Provider Assistance Services Section (MPASS) has oversight of the Administrative Services Organization (ASO) contract with Optum, psychiatric residential treatment facilities (PRTF), and autism services. The ASO is responsible for all 1115 Waiver Medicaid claims processing and select state plan claims processing. The MPASS monitors incident reports in PRTF facilities, conducts provider technical assistance, issues department approvals for agencies wanting to enroll in the Alaska Medicaid program, and conducts reviews of provider policy and procedure prior to issuing department approval. The MPASS provides education to providers to ensure state and federal regulations are followed. The MPASS will begin working with the ASO to determine metrics for monitoring claims activity for potential cases of fraud, waste, and abuse. In instances where normal methods fail to correct provider patterns, MPASS works in collaboration with the Program Integrity Office to determine appropriate actions.

Number of Positions and FY 2022 Funding:

- Anchorage Staff: 15
- FY 2022 component budget: \$832,011

Actions Taken to Prevent Fraud, Waste, and Abuse

DEPARTMENT OF LAW:

Criminal Division - Medicaid Fraud Control Unit (MFCU):¹

Including cases from prior fiscal years, the unit began with 167 open cases, added 31 new cases, and closed 17 cases by the end of FY 2022. There are 181 active cases.

The following actions occurred in FY 2022:

- Individuals criminally charged: 0
- Criminal convictions:² 2
- Cases with a civil resolution:³ 3
- Cases reviewed and declined based on insufficient evidence: 2

Civil Division:

- Audit appeals referred to the Office of Administrative Hearings: 5
- Sanction appeals referred to the Office of Administration Hearings: 1

DEPARTMENT OF HEALTH:

Office of the Commissioner – Program Integrity Office:

- Payment suspension including Credible Allegations of Fraud: 7
- Incoming referrals from incoming complaints: 24
- Audits issued under AS 47.05.200: 89
- Focused reviews: 151
- Self-audits received and processed: 72

Division of Public Assistance – Fraud Control Unit (DPA - FCU):

The DPA - FCU received 60 fraud referrals for the Alaska Medicaid program:

¹ For more information on any of these cases, visit www.law.alaska.gov/department/criminal/mfcu.html or contact Assistant Attorney General Kaci Schroeder at kaci.schroeder@alaska.gov.

² Convictions relate to convictions that occurred in FY 2022. However, some cases may have originally been filed in years prior to FY 2022.

³ Prosecutions deferred in exchange for an agreement to pay back the money and pay an additional civil penalty.

- Applicant or Early Fraud Detection Investigations: 2
- Categorically Ineligible Investigations: 45
- Recipient or Post Certification Investigations: 13

The DPA - FCU completed 58 investigations involving the Alaska Medicaid Program:

- Applicant or Early Fraud Detection Investigations: 2
- Categorically Ineligible Investigations: 43
- Recipient or Post Certification Investigations: 13
- Closed cases for reasons other than fraud pertaining to the Alaska Medicaid program: 1,055

Senior and Disabilities Services - Quality Assurance Unit (SDS – QAU):

- Intake to SDS – QAU: 16,378
- Investigations/over-utilizations referred to the Program Integrity Office and/or the MFCU: 28
- Investigations conducted: 281
- Substantiated allegations: 58
- Providers that received formal technical assistance: 21
- Providers required to submit a Corrective Action Plan: 6
- Notice to Correct letters sent to providers: 32
- Terminated from the Alaska Medicaid Program: 1
- Mortality cases reviewed during Mortality Review Task Committee: 753
- COVID-19 related deaths: 72

Division of Health Care Services – Quality Assurance Unit:

- Surveillance and Utilization Review cases opened: 92
- Recoveries in FY 2022: \$62,823
- Recipients assigned to the Care Management Program: 598
- Cost savings estimate for recipients assigned to the Care Management Program: \$7,841,289

Division of Behavioral Health – Medicaid Provider Assistance Services Section:

- Technical assistance calls: 22
- Individual provider technical assistance: 30 agencies
- Provider self-disclosure cases: 1
- Provider admission hold: 1
- Providers with corrective action plans: 2
- Two-day technical assistance and 1115 Waiver implementation conference – Optum Alaska Behavioral Health Collaborative: 1
- Issued 3 DBH guidance documents:

- DBH SFY 2021 Guidance Document 1 – Z Codes as a Primary Diagnosis
- DBH SFY 2021 Guidance Document 2 – Autism Concurrent Services
- DBH SFY 2021 Guidance Document 3 – Autism Rendering Providers

Status of Prior Years' Initiatives Taken to Prevent Fraud, Waste, and Abuse

The following initiatives began in previous years and work is ongoing in FY 2022:

- The Medicaid Program Integrity Office has partnered with CMS and the Centers for Program Integrity, Division of State Partnership (DSP) on a new Medicare-Medicaid data sharing initiative to help identify fraud, waste, and abuse that overlap both programs. This partnership resulted in one provider suspected of over-prescribing opioids being terminated from the Alaska Medicaid program. Additionally, an audit of one out-of-state pharmacy has identified potential overpayments exceeding \$300,000.
- AS 47.05.235 requires Medicaid providers to complete a self-audit once every two years. The second round of self-audits is due no later than December 31, 2022.
- The Medicaid Program Integrity Office publishes a list of excluded providers in Alaska to help prevent fraud, waste, and abuse by identifying providers who may have been convicted of medical assistance fraud or other barring conditions. Excluded providers are not allowed to enroll in the Alaska Medicaid program unless they have been reinstated by the U.S. Department of Health and Human Services, Office of the Inspector General. The list is updated as needed.
- The HCS – QAU collaborated with our fiscal agent on the implementation of the new electronic Explanation of Medical Benefit (EOMB) portal in FY 2021 providing EOMB functionality for both children and adults. The EOMB portal has a direct connection to the Medicaid Management Information System (MMIS) and which allows members to review services (claims) billed on their behalf and provide feedback. In FY 2022, DHCS actively worked on increasing the number registered EOMB portal users and as a result increased by 104%. The EOMB functionality serves as a tool for member education and can also act as a catalyst for fraud, waste, and abuse investigations. This implementation has been completed.

Initiatives Taken to Prevent Fraud, Waste, and Abuse

During FY 2022, Medicaid Program Integrity recovered over \$5.8 million in overpayments paid to providers, and seven payment suspensions were initiated. Also, during FY 2022, MPI continued to work with Centers for Medicare & Medicaid Services (CMS) Centers for Program Integrity (CPI) and their Division of State Partnership (DSP) on a Medicare-Medicaid data sharing initiative to help identify fraud, waste and abuse that overlaps both programs. The DSP has hired contractors known as Unified Program Integrity Contractors to perform data analysis and identify potential problem providers based on their review of both Medicaid and Medicare claims data. Several leads developed through this partnership resulted in identification of overpayments and one provider was excluded from Alaska Medicaid.

Medicaid Program Integrity continued as a Law Enforcement Liaison with the National Healthcare Anti-Fraud Association (NHCAA) to leverage training opportunities, share the various tools used by partners, and detect and prevent healthcare fraud more effectively.

The HCS – QAU and Systems Unit worked in conjunction with Gainwell Technology- HCLS Interoperability Delivery Team on the system design of the Interoperability and Patient Access Project, which aims to put patients at the center of their health care by ensuring they have access to their health information. The IPA Project goal is to implement multiple rules required by the CMS in the Interoperability and Access final rule (CMS-9115-F). This initiative is designed to improve the quality and accessibility of information that Alaskans need to make informed health care decisions, including data about health care prices and outcomes while minimizing reporting burdens on affected health care providers and payers.

DBH successfully sunset Behavioral Health Rehabilitation Services, Recipient Support Services, and Comprehensive Community Support Services on March 31, 2021, which satisfied a long-standing requirement of the Centers for Medicare and Medicaid Services (CMS).

DBH revised service descriptions of Case Management Services and Therapeutic Behavioral Health Services and obtained CMS approval to prevent these services from sunseting on June 30, 2021.

Examples of Issues Uncovered, *i.e.*, Vulnerabilities in the Medicaid Program (Including suggestions from Meyers and Stauffer)

- No interface between the Background check program and the MMIS, which can allow Medicaid providers to receive payment for services without having a valid background check on file.
- Failure to require all direct service providers including chore, respite, and behavioral health state plan services providers to enroll as rendering providers.

Recommendations to Increase Effectiveness of Fraud, Waste, and Abuse Mitigation Measures and Initiatives

- Revisit and address gaps in the background check process under AS 47.05.300.
- Home and Community Based Waiver regulations should mirror Personal Care Assistant(PCAs) regulations regarding documentation requirements.
- Require enrollment of all direct service providers.
- Ensure all provider audits and Surveillance and Utilization Review reports are vetted by Medicaid Program Integrity Office and the appropriate Medicaid division prior to release.

Dollar Return for Efforts, Including Cost Avoidance

DEPARTMENT OF LAW:

Criminal Division - Medicaid Fraud Control Unit (MFCU)

Restitution ordered from criminal convictions resolved during FY 2022.

- Restitution recovered from all outstanding matters: \$23,515.00
- Recoveries from nationwide false claims cases: \$71,642.32

Civil Division:

- Amount awarded in OAH orders: \$214,622
- Amount awarded in superior court orders: \$333,547
- Amounts agreed upon and recovered in settlements: \$430,902 (note that \$48,000 of this was agreed upon in a settlement, but is unlikely to be recovered).

DEPARTMENT OF HEALTH:

Office of the Commissioner – Alaska Medicaid Program Integrity Office

Recoveries:	\$5,859,920
Cost Avoidance:	\$2,769,669
Total Program Return to State:	\$8,629,589
Return on Investment:	\$8.00 returned for every \$1.00 spent

Division of Public Assistance – Fraud Recovery Unit

Recoveries: ⁴ \$34,784

Cost Avoidance: \$84,772

Division of Senior and Disabilities Services – Quality Assurance Unit

Recoveries: \$13,323

Division of Health Care Services – Quality Assurance Unit

Recoveries: \$62,823

Care Management Cost Avoidance: \$7,841,289

Examples of Prosecuted and/or Prevented Fraud, Waste, or Abuse

DEPARTMENT OF LAW

Criminal Division – Medicaid Fraud Control Unit (MFCU):⁵

The Alaska MFCU's investigative activities in FY 2022 focused on complex institutional/corporate entities and vulnerable-recipient investigations.

Despite the continuation of a modified COVID-related remote-working model and staffing attrition issues, unit investigative activity has been robust. For example, during FY 2022, MFCU investigators conducted more than 236 suspect and percipient-witness interviews; applied for, obtained, and served more than 27 search warrants; and have been actively working 12 complex cases. One of those is a complex corporate record-

⁴ Recoveries represent Medicaid recoveries only and does not include recoveries from other programs.

⁵ For more information on any of these cases, go to www.law.alaska.gov/department/criminal/mfcu.html or contact Assistant Attorney General Kaci Schroeder at kaci.schroeder@alaska.gov.

integrity and corporate governance investigation, which has been ongoing for more than a year, and has triggered dozens of interviews of corporate personnel.

The unit's pending cases include allegations of medical assistance fraud by PCAs and PCA agencies, as well as ongoing cases involving drug diversion, emergent and non-emergent transportation provider fraud, and false billings by dentists, physicians, board certified behavior analysts, and advanced nurse-practitioners. In response to Alaska's compelling opioid-prescription crisis, our unit has prioritized several investigations targeting Medicaid-enrolled physicians and nurse-practitioners.

Alaska MFCU's success is directly tied to continuing cooperation of Medicaid industry stakeholders. These include the State of Alaska Department of Health (DOH) Program Integrity Unit (PI), Senior and Disabilities Services Quality Assurance Unit (SDS QAU), Department of Health and Human Services Office of Inspector General (DHHS-OIG), the Federal Bureau of Investigations (FBI), Immigration and Customs Enforcement Homeland Security Investigations (ICE HSI), and various other state and federal agencies.

DEPARTMENT OF HEALTH:

Division of Public Assistance - Fraud Control Unit:

Monica Covington-3PA-17-00243CR

Evidence procured as part of this investigation substantiated that Monica Covington failed to accurately declare her employment and income, resulting in the issuance of \$15,035.00 in Food Stamp benefits from December 2012 to April 2015, as well as Medicaid benefits totaling \$31,563.83 from January 2013 to May 2015. Ms. Covington was ordered to pay restitution to the Division of Public Assistance in the amount of \$46,598.83.

Jose Rueda- 3AN-21-09135CI

Jose Rueda continued to receive Alaska Public Assistance benefits while residing outside Alaska. Between about March 2017 and March 2019, Rueda received welfare benefits totaling \$12,908.50. The Department of Law filed a civil action and a judgment was awarded to the State of Alaska. Funds in the amount of \$12,078.32 were received by DPA FCU and forwarded to the Claims Unit.

Senior and Disabilities Services – Quality Assurance Unit (SDS – QAU):

The SDS - QAU performed provider training, and assisted with the investigation and identification of the following types of fraud:

A Care Coordinator was terminated from Medicaid for health and safety concerns.

SDS - QAU issued "notices to correct" for a variety of reasons. (The notices are an effort to correct behavior considered non-compliant with program rules and offer providers an opportunity to correct.)

Corrective action plans were required when provider agencies needed to retrain staff or redesign procedures to meet compliance standards as the result of substantiated allegations.

SDS-QAU investigators made referrals to the Alaska Medicaid Program Integrity Office and the DOL – MFCU after conducting preliminary investigations which resulted in recoveries noted by the Alaska Medicaid Program Integrity Office and/or the DOL – MFCU.

Most Recent Payment Error Rate

The Medicaid program and Children’s Health Insurance Program (CHIP) have been identified as programs at high risk of improper payments. CMS measures these improper payments annually through the payment error rate measurements (PERM) program. The PERM program reviews three components: (1) Fee-For-Service (FFS) claims, (2) managed care (MC) capitation payments, and (3) eligibility determinations and resulting payments. Alaska does not have managed care.

The CMS conducts PERM on all 50 states in 3 cycles, with about 17 states in each cycle. Alaska is a cycle 3 state which means the last Alaska PERM cycle reviewed state fiscal year 2020 and is known as reporting year (RY) 2021. The results of the PERM review were released November 15, 2021. Alaska’s overall Medicaid error rate was 34.81% including a fee for service error rate of 13.92% combined with a Medicaid eligibility error rate of 24.27%. Alaska’s overall CHIP error rate was 64.66% which consisted of a fee for service error rate of 11.81% and a CHIP eligibility error rate of 59.93%. Alaska has submitted and received approval for the PERM Corrective Action Plan addressing the error rates for RY 2021.

Results from the Medicaid Eligibility Quality Control Program

CMS resumed both the PERM and Medicaid Eligibility Quality Control (MEQC) Program activities in August 2020 and in Alaska, the PERM and the MEQC took place simultaneously. The eligibility portion of PERM was conducted by an outside contractor hired by CMS. Alaska completed the eligibility reviews for MEQC during 2021. Alaska was required to conduct a 12-month MEQC pilot in the PERM off years for RY 2022. Due to the federal COVID-19 public health emergency, the parameters of the MEQC were reduced to 200 cases total for each of the Cycle-3 states. Alaska has completed the required reviews and is in the final stages of report submission for RY 2022 MEQC that is due November 1, 2022. State Quality Control staff play a vital role in the review process by participating in sections of the review as requested by the contractor, as well as conducting full MEQC reviews.