

# **Medicaid Fraud Control Unit (MFCU)**

# MFCU Federal Authority

- MFCUs are located in 49 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands
- Authorized under federal law and receive federal funding
- 2018 MN Medicaid spending = \$12.5 billion

# MFCU

## Federal Authority (Cont'd)

- **Duty to Investigate and Prosecute:**
  - Fraud in the administration of the Medicaid Program.
  - Abuse or neglect of patients in health care facilities or agencies receiving Medicaid payments.
  - Misappropriation of patient's private funds when they are receiving services from a Medicaid provider.
  - Abuse and neglect in assisted living facilities.

# STAFF

- Seven attorneys
- One Investigative auditor
- One Lead investigator
- Sixteen Investigators
- Three Paralegals and
- Four legal support staff

# MEDICAID FRAUD UNIT STATISTICS

- **Investigations (July 1, 2017- June 30, 2018)**
  - Opened 75 fraud cases and 3 abuse, neglect and financial exploitation
- **Criminal**
  - Filed 47 criminal complaints for fraud
  - Convicted 62 fraud defendants
  - Restitution was ordered in the amount of \$10,584,679.36

# MEDICAID FRAUD UNIT

## STATISTICS

(Cont'd)

- **Civil**

- Civil judgments in the amount of \$2,857,813.90 were negotiated
- 3 license suspension
- 48 program suspensions

# MFCU Cases, Example 1

## **Personal Care Assistant (PCA) case:**

- A PCA billing services when he worked another job out of state and when client hospitalized.
- Could not have been in two places at once.
- Cannot bill for PCA services when client is hospitalized.
- Was splitting the money with the responsible party.
- The responsible party was also charged.

# MFCU Cases, Example 2

## **Personal Care Provider Organization (PCPO) case:**

- PCPO owner allowed individuals who were not qualified to provide PCA services, the owner then submitted claims under other NPI numbers.
- PCPO owner also submitted claims without a QP on staff and billed for more hours than were reported on time sheets.
- Prison sentence of 68 months was stayed
- A year in jail
- 20 years probation
- Restitution of \$601,070.53.
- License Exclusion by Health and Human Services (HHS)/ Office of the Attorney General (OIG) (federal) from Medicaid/Medicare for minimum of 5 years



# MFCU Cases, Example 3

## **PCPO case:**

- Defendant 1 was convicted of fraud and was excluded by HHS/OIG. Owner opened another agency listing Defendant 2 as owner of the new agency. Defendant 1 was active in the operation of the new agency while excluded.
- Stole identity of a QP and reported to the DHS that had a QP on staff.
- Submitted claims for more hours that was reported by the PCA and also submitted claims under PCAs that did not provide services.
- Defendant 1 – 33 months in prison
- Defendant 2 – Stay of imposition, 175 days in jail
- Restitution of \$132,883.55 (joint and several)

# MFCU Cases, Example 4

## **PCPO case:**

- PCPO owner submitted claims for services that did not occur
- PCPO owner unlawfully served as R/P
- Stole identity of a QP and falsely represented to DHS that the person's whose identity was stolen was the QP for the agency.
- Paid kickbacks to recipients.
- Stay of Imposition of sentence
- 365 days in jail, alternating between 90 days in and 90 days of EHM.
- Restitution of \$195,093.38 with a minimum payment of \$25 a month. Plus payments to victims of identity theft.
- License Exclusion by HHS/OIG (federal) from Medicaid/Medicare for minimum of 5 years

# MFCU Cases, Example 5

## **PCA case:**

- PCA cared for 2 recipients at the same time (shared care) but submitted time sheets reporting that PCA only cared for one recipient at a time.
- Stay of Imposition
- 300 hours of community service work / 30 days EHM
- Restitution of \$15,426.76
- License Exclusion by Health and Human Services (HHS) or the Office of the Inspector General (OIG) (federal) from Medicaid, Medicare or both

# THE LAW

**Minnesota Statutes provide that “theft of public funds, no matter what the amount, is a felony” – that means billing for one unit of PCA services not provided is a felony.**

# PCAs Should Know That Falsely Reporting Hours They Do Not Work Could Result In Prosecution For A Felony

Possible penalties include:

- Exclusion from working at a Medicaid or Medicare funded job for at least five years, usually longer.
- Felony record makes it harder to find **any** job.
- Prison or Jail.
- Restitution.
- Deportation.
- Disqualification from Section VIII housing.
- Negative licensing actions for licensed providers.

# HOW YOU AS A PCPO CAN HELP

- Tell the rules to your employees
  - Employee Manuals
    - They receive the manual
    - They have an opportunity to ask questions about it
    - Have them sign that they understand

# HOW YOU AS A PCPO CAN HELP

(Cont'd)

- Let them know that you will not tolerate false billing
  - In addition to being fired they can be prosecuted.
  - Include something on PCA's time card that says: "I verify the accuracy of the information reported on this document and understand that submission of false documentation is cause for termination and possible criminal penalties."

# HOW YOU AS A PCPO CAN HELP

(Cont'd 2)

- Require accurate time cards from all employees.
  - Must include a.m. and p.m. designations
- Remind PCAs they are only paid for the hours they actually work.



# HOW YOU AS A PCPO CAN HELP

(Cont'd 3)

The PCAs must accurately report hours.

- No one works 8:00 a.m. to 9:00 p.m. 7 days a week, 365 days per year without a break, without being late, without a doctor or dentist appointment, without being sick without missing an hour or a day.
- If it looks suspicious, it probably is suspicious.

# HOW YOU AS A PCPO CAN HELP

(Cont'd 4)

- You may be asked to provide timecard documentation to SIRs or to MFCU as a requirement of the provider agreement.
  - Keep your records in a logical order (by client)
  - Keep up-to-date employee records
    - Change of address
    - Records of training
    - Disciplinary notes

# HOW YOU AS A PCPO CAN HELP

(Cont'd 5)

- Remember that your billing must be supported by the time cards
  - You cannot bill based on the authorized hours of the service agreement
  - You can only bill for services actually provided
  - The time cards verify that the hours have been provided

# HOW YOU AS A PCPO CAN HELP

(Cont'd 6)

Ensure only eligible PCAs are providing services pursuant to Minnesota law and MCHP rules, PCA services cannot be provided by:

- Spouse of recipient
- Parent of minor child
- QP for the recipient
- Consumer of PCA services
- RP of a recipient

# Questions

# **Thank You**

Kirsi Poupore  
Assistant Attorney General  
Director, Medicaid Fraud Control Unit  
(651) 757-1299