



Thomas A. Schweich
Missouri State Auditor

**OFFICE OF ATTORNEY
GENERAL**

**Medicaid Fraud
Control Unit**

July 2011

Report No. 2011-37



<http://auditor.mo.gov>



Thomas A. Schweich
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Office of Attorney General, Medicaid Fraud Control Unit

Background	The Medicaid Fraud Control Unit was created in 1994. It investigates and prosecutes Medicaid fraud by health care providers and reviews complaints of abuse or neglect of nursing home residents. Section 191.909.1, RSMo, requires the Attorney General's office to annually report certain activities related to the Medicaid Fraud Control Unit.
Audit Findings	The state auditor is required to conduct an audit to determine the amount of money invested in the unit and the amount of money actually received by the unit. The scope of our audit included, but was not necessarily limited to, the 2 years ended December 31, 2010. The Medicaid Fraud Control Unit collected almost \$39 million and \$80 million in 2010 and 2009, respectively. No findings resulted from our audit.

In the areas audited, the overall performance of this entity was **Excellent**.*

American Recovery and Reinvestment Act 2009 (Federal Stimulus)	The Medicaid Fraud Control Unit did not receive any federal stimulus monies during the audited time period.
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*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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Office of Attorney General

Medicaid Fraud Control Unit

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THOMAS A. SCHWEICH
Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Members of the General Assembly
and
Honorable Chris Koster, Attorney General
Jefferson City, Missouri

We have audited certain operations of the Office of Attorney General, Medicaid Fraud Control Unit, as required by Section 191.909.1, RSMo. The objectives of our audit were to:

1. Determine the amount of money recovered by the unit.
2. Determine the amount of money invested in the unit.
3. Evaluate the unit's compliance with certain legal provisions.

Our audit determined the amount of money recovered by and invested in the unit, and reported those amounts in Appendixes A and B. In addition, for the areas audited, we identified no significant noncompliance with legal provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the office's management and, other than Appendixes A and B, was not subject to the procedures applied in our audit of the Medicaid Fraud Control Unit.

No findings resulted from our audit of the Office of Attorney General, Medicaid Fraud Control Unit.

A handwritten signature in black ink that reads "Thomas A. Schweich". The signature is written in a cursive style with a large, sweeping initial "T".

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

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In-Charge Auditor:	Terri Erwin, MBA, CGAP
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Office of Attorney General

Medicaid Fraud Control Unit

Introduction

Background

Starting in 2008, pursuant to Section 191.909.1, RSMo, the Attorney General's office is to report annually, by January 1 of each year, the following activities related to the Medicaid Fraud Control Unit (MFCU):

- "(1) The number of provider investigations due to allegations of violations under sections 191.900 to 191.910 conducted by the attorney general's office and completed within the reporting year, including the age and type of cases;
- (2) The number of referrals due to allegations of violations under sections 191.900 to 191.910 received by the attorney general's office;
- (3) The total amount of overpayments identified as the result of completed investigations;
- (4) The amount of fines and restitutions ordered to be reimbursed, with a delineation between amounts the provider has been ordered to repay, including whether or not such repayment will be completed in a lump sum payment or installment payments, and any adjustments or deductions ordered to future provider payments;
- (5) The total amount of monetary recovery as the result of completed investigations;
- (6) The total number of arrests, indictments, and convictions as the result of completed investigations."

Additionally, the state auditor is required to conduct an audit of the MFCU ". . . to quantitatively determine the amount of money invested in the unit and the amount of money actually recovered by such office."

Scope and Methodology

The scope of our audit included, but was not necessarily limited to, the 2 years ended December 31, 2010.

Our methodology included conducting interviews with appropriate MFCU and Department of Social Services (DSS) personnel; reviewing written policies and procedures; obtaining and reviewing the MFCU annual report for the years ended December 31, 2010 and 2009; reviewing applicable state law and MFCU records; and testing of certain transactions.

We obtained an understanding of internal controls that were significant within the context of the audit objectives and assessed whether such controls had been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that



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Medicaid Fraud Control Unit
Introduction

were significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

To determine the amount of monies recovered by and invested in the unit, we compared the annual report information to the revenues and expenditures recorded in the state accounting system (SAM II), and to supporting documentation. We ensured the annual report included all amounts and information required by Section 191.909.1, RSMo, and compared the amounts and information to supporting documentation to ensure the report was complete and accurate. We also tested the amounts and information in the case files to ensure MFCU supporting documentation was complete and accurate.

Office of Attorney General

Medicaid Fraud Control Unit

Organization and Statistical Information

The Attorney General's office is located in Jefferson City. There are branch offices in Kansas City, St. Louis, Springfield, and Cape Girardeau. The office is organized into nine divisions: Agriculture and Environment; Consumer Protection; Civil, Disability and Workers' Rights; Criminal; Financial Services; Governmental Affairs; Labor; Litigation; and Public Safety. Each division is headed by a chief counsel who is responsible for the operations of the division.

The Medicaid Fraud Control Unit (MFCU) is organizationally located within the Public Safety Division, and was created in 1994.

The MFCU conducts a statewide program for the investigation and prosecution of health care providers that defraud the Medicaid program. Additionally, the MFCU reviews complaints of abuse or neglect of nursing home residents and may review complaints of the misappropriation of patients' private funds in these facilities. The MFCU is also charged with investigating fraud in the administration of the Medicaid program and providing for the collection or referral for collection to the state Medicaid agency, the Department of Social Services (DSS). Referrals are received from the DSS Program Integrity Unit and Investigations Unit, other state agencies, and federal agencies. Additionally, the MFCU initiates its own investigations.

The MFCU operates under the administration oversight of the Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS), and must be recertified annually by the OIG. To receive certification, the MFCU must be separate and distinct from the state Medicaid agency (DSS). Federal regulations also prohibit 1) any official from DSS from having authority to review or overrule activities of the MFCU, 2) the MFCU from receiving funds from the DSS, 3) the MFCU from pursuing recipient fraud, unless there is a conspiracy with a provider, and 4) the MFCU from engaging in the routine computer screening activities that are the usual monitoring function of the DSS. In addition, the MFCU is required to enter into a Memorandum of Understanding with the DSS which outlines each agency's responsibilities and duties to each other. An annual federal grant from HHS reimburses 75 percent of MFCU expenses, with the state paying the remaining 25 percent of expenses.

Section 191.905.11, RSMo, provides restitution monies recovered by the MFCU be deposited to the MO HealthNet Fraud Reimbursement Fund and appropriated to the federal government and affected state agency(s) to refund monies falsely obtained from the federal government and state agency(s). For federal fiscal years 2009 and 2010, monies collected were distributed between the federal government and state agency at a rate of 63.19 percent and 36.81 percent, and 64.51 percent and 35.49 percent, respectively. These rates changed in federal fiscal year 2011 to 63.29



Office of Attorney General
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Organization and Statistical Information

percent and 36.71 percent, respectively. Any monies remaining in this fund after appropriation to the federal government and state agency(s) are to be used to increase the MO HealthNet provider reimbursement until it is at least 100 percent of the Medicare provider reimbursement rate for comparable services. Any cost reimbursements for the investigation and/or prosecution of the Medicaid fraud are to be deposited to the MO HealthNet Fraud Prosecution Revolving Fund. These monies may be appropriated to the Attorney General, or to any prosecuting or circuit attorney who has successfully prosecuted and been awarded such costs of prosecution.

Restitution and investigation/prosecution costs recovered by the MFCU are transmitted to the DSS, Division of Finance and Administrative Services for depositing and recording in SAM II.

At December 31, 2010, the Office of Attorney General, MFCU employed 20 full-time employees, including a director, attorneys, investigators, auditors, a programmer analyst, and secretaries.

The Office of Attorney General, MFCU did not receive any federal stimulus monies during the 2 years ended December 31, 2010.

American Recovery and
Reinvestment Act 2009
(Federal Stimulus)

Appendix A

Recoveries - 2 Years Ended December 31, 2010

For the 2 years ended December 31, 2010, the MFCU recovered the following funds:

	Year Ended December 31,		
	2010	2009	
Federal	\$ 3,061,644	62,161	(1)
State	14,397,677	50,226,979	(2)
Federal direct	<u>21,372,374</u>	<u>29,586,133</u>	(3)
Total	\$ <u>38,831,695</u>	<u>79,875,273</u>	

(1) Federal government's share of the funds recovered by the unit.

(2) State's share of the funds recovered by the unit and from multi-state cases. In 2009, the unit received a settlement in the amount of \$31 million which is being held pending litigation. A portion will be subject to the federal split when resolved.

(3) This amount includes the federal government's share of multi-state settlements, which is remitted directly to the federal government by the multi-state trustee.

Appendix B

Operating Costs - 2 Years Ended December 31, 2010

For the 2 years ended December 31, 2010, the costs incurred to operate the MFCU were:

	<u>Year Ended December 31,</u>	
	<u>2010</u>	<u>2009</u>
Salaries and wages	\$ 801,804	875,305
Fringe benefits	343,920	387,068
Travel, in-state	3,718	4,783
Travel, out-of-state	2,336	4,736
Supplies	23,020	26,446
Professional development	19,715	10,275
Communication services and supplies	14,365	13,851
Professional services	14,734	156,984
Maintenance and repair services	15,331	15,794
Computer equipment	108,816	9,355
Office equipment	40,055	1,173
Debt service	3,704	1,858
Miscellaneous expenses	1,477	6,475
Court costs	1,060	60,063
Building lease payments	<u>69,683</u>	<u>65,484</u>
Total	\$ <u><u>1,463,738</u></u>	<u><u>1,639,650</u></u> (1)

(1) For 2010 and 2009, funding of these costs included both state monies and a federal reimbursement. The federal reimbursement for 2010 was \$1,097,803, with \$120,236 being indirect costs. The federal reimbursement for 2009 was \$1,229,738, with \$133,922 being indirect costs. The state funding for 2010 and 2009 was \$365,935 and \$409,912, respectively.