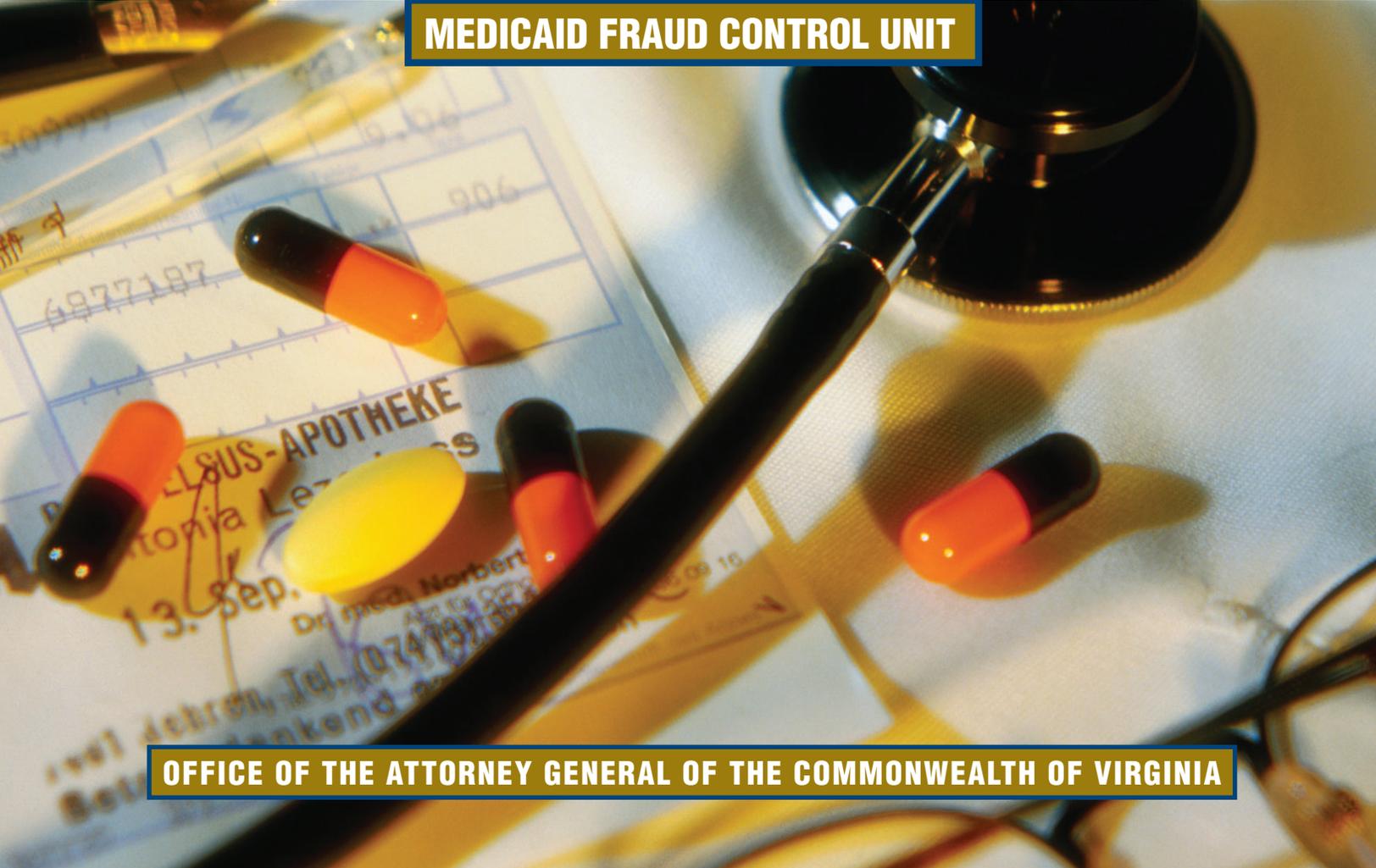


MEDICAID FRAUD CONTROL UNIT







Attorney General Kenneth T. Cuccinelli, II

The men and women working in the Medicaid Fraud Unit continue to surpass milestones in their fight to protect the health and welfare of the residents of the Commonwealth.

We are pleased to offer the Medicaid Fraud Control Unit's 2010 Annual Report.



**Medicaid Fraud Control Unit
Office of the Attorney General**
900 East Main Street, Richmond, VA 23219
(804) 786-2071



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COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

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Richmond, Virginia 23219
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Virginia Relay Services
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7-1-1

June 30, 2010

The Honorable Kenneth T. Cuccinelli, II
Attorney General of Virginia
900 East Main Street
Richmond, VA 23219

Dear General Cuccinelli:

On October 1, 1982, the United States Department of Health and Human Services formally designated and certified the Virginia Medicaid Fraud Control Unit (MFCU or the Unit) as an integral part of the nationwide effort to deter fraud and the misapplication of funds by health care providers enrolled in the Commonwealth's Medical Assistance Program, which is administered by the Virginia Department of Medical Assistance Services (DMAS). This year, as a result of our criminal and civil investigations, the MFCU has successfully recovered significant amounts of money wrongfully paid to providers by Virginia's Medicaid program. The MFCU achieved its fourth most successful year since its inception and obtained convictions of 13 healthcare providers in state and federal courts, with \$25,390,467.21 of restitution ordered to be paid to Medicaid. In addition to maintaining its normal significant caseload, the members of MFCU also trained eight new employees.

The outstanding performance of the MFCU is attributable to a team effort, the Unit's exceptional relationship with other state and federal agencies, and the continued support from you and your senior staff. The tremendous success of the Unit this year could not have been achieved without the persistent work performed by the men and women of the MFCU, who spend many days away from families and friends while conducting surveillances, executing search warrants, analyzing records, conducting interviews, and prosecuting cases. The Unit's commitment to the Office of the Attorney General and its mission is why, in 2008, we were named the number one MFCU in the country by the United States Department of Health and Human Services, Office of Inspector General (HHS-OIG). The MFCU is proud to serve among the nation's leaders in combating fraud in the Medicaid program. We thank you for your continued support and encouragement.

The report that follows reviews the first half of the 2009-2011 biennium, from July 1, 2009 to June 30, 2010, and sets forth the organization, operations, and accomplishments of the Unit.

With kindest regards, I remain

Very truly yours,

A handwritten signature in cursive script, reading "Randall R. Cluser".

Director
Medicaid Fraud Control Unit
Health Care Fraud and Elder Abuse Section

PREFACE

The Virginia Medicaid Fraud Control Unit (MFCU or the Unit) of the Office of the Attorney General was certified October 1, 1982, by the United States Department of Health and Human Services. The Unit is one of fifty similarly structured units throughout the United States. In deciding to establish a MFCU in Virginia, the General Assembly stated:

The General Assembly finds and declares it to be in the public interest and for the protection of the health and welfare of the residents of the Commonwealth that a proper regulatory and inspection program be instituted in connection with the providing of medical, dental and other health services to recipients of medical assistance. In order to effectively accomplish such purpose and to assure that the recipient receives such services as are paid for by the Commonwealth, the acceptance by the recipient of such services and the acceptance by practitioners of reimbursement for performing such services shall authorize the Attorney General or his authorized representative to inspect and audit all records in connection with the providing of such services. Section 32.1-310, Code of Virginia, 1950, as amended.

STATUTORY AUTHORITY

In 1981, the Virginia General Assembly enacted Chapter 9, §§ 32.1-310 through 32.1-321 of the Code of Virginia to regulate medical assistance in the Commonwealth. This Chapter authorizes criminal sanctions for specific acts of Medicaid fraud and abuse. The duties and responsibilities of the Unit are set forth in § 32.1-320.

In 1982, the Unit was established within the Office of the Attorney General in accordance with federal requirements. This Unit is separate and distinct from the Department of Medical Assistance Services (DMAS), which is the single state agency in the executive branch responsible for the administration of the Medicaid program.

In 1995, the General Assembly significantly amended the Medicaid fraud statutes by converting Virginia Code § 32.1-314, the most frequently charged crime under the Medicaid fraud statutes, from a larceny-type offense to a false-claims offense. The change eliminated the requirement that the Commonwealth prove \$200 or more was wrongfully taken from the program in order to secure a felony conviction. Under the amended statute, the Commonwealth need only prove that a materially false statement was made in an application for reimbursement under the program.

In 2007, the Unit successfully proposed legislation to elevate the penalty for abuse or neglect of an incapacitated adult that resulted in death to a Class 3 felony, which is a term of imprisonment of not less than five years nor more than 20 years and a fine of not more than \$100,000 (2007 Va. Acts cc. 562, 653). Before the 2007 amendment, abuse of an incapacitated adult resulting in serious bodily injury or disease was a Class 4 felony punishable by a term of imprisonment of not less than two years nor more than 10 years and a fine of not more than \$100,000. In 2007, the General Assembly also enacted

a number of changes to health care fraud statutes in Virginia to ensure Virginia would be deemed compliant with the federal Deficit Reduction Act of 2005. If deemed compliant, Virginia would be allowed to keep an additional 10% of the recoveries.

- Amended Virginia Code § 8.01-216.3 to increase the minimum penalty from \$5,000 to \$5,500 and increase the maximum penalty from \$10,000 to \$11,000;
- Amended Virginia Code § 8.01-216.3 to allow the Virginia Attorney General's Office to recover attorney fees and costs incurred in its investigation and prosecution of *qui tam* actions;
- Amended Virginia Code §§ 8.01-216.5 and 8.01-216.6 to replace "motion for judgment" and "motion" with "complaint" (lines 55, 56-57, 59, 62, 64, 77, and 78);
- Amended Virginia Code § 8.01-216.9 to (1) extend the statute of limitations period; (2) extend the burden of proof requirement; and (3) prevent defendants from denying civil liability if they are convicted in a criminal proceeding based on the same transaction or occurrence; and
- Amended Virginia Code §§ 32.1-312 and 32.1-313 to extend the statute of limitations and allow Virginia to bring a civil action for fraud against health care subcontractors that provide services or goods to Medicaid recipients, but do not contract directly with Virginia's state provider pursuant to a provider agreement.

2007 Va. Acts, c. 569. The United States Department of Health and Human Services, Office of the Inspector General issued a ruling on March 13, 2007 that found Virginia's statutory scheme was in compliance.

UNIT MISSION

The Unit is charged with the investigation and prosecution of Medicaid providers who conduct their businesses in a fraudulent or highly abusive manner. The intended result of this effort is to deter all providers of medical services from engaging in these types of behaviors.

In order to achieve this goal, the Unit will:

Conduct professional and timely criminal investigations that lead to just results;

Collaborate with other state and federal agencies involved in the battle against healthcare fraud and patient abuse and neglect throughout the Commonwealth. In fact, the MFCU is uniquely positioned to take the lead in investigating and prosecuting healthcare fraud and patient abuse and neglect in the Commonwealth;

Seek alternatives to criminal prosecution, when appropriate, to reinforce and instill in the provider community a desire to comply with all regulations promulgated by the Virginia Department of Medical Assistance Services (DMAS);

Provide educational resources to the community, law enforcement, and other agencies through presentations on the work of the MFCU, and the publishing of a quarterly newsletter and brochures which provide information on Medicaid fraud as well as elder and patient abuse and neglect;

Refine internal operating procedures designed to produce timely investigative results and maximize Unit resources in order to promote efficient and thorough strategies for each case;

Promote effective communication between the Unit and DMAS, thereby increasing the number and quality of referrals;

Maintain the highest standards of excellence through aggressive training on current fraud trends and law enforcement tools in an attempt to better combat fraud in the Medicaid program; and

Provide assistance related to nationwide civil and criminal healthcare fraud matters.

America's oldest English-speaking representative assembly has been meeting in the Virginia State Capitol since 1788.



OFFICE OF THE ATTORNEY GENERAL PERSONNEL



(June 30, 2010)

The Honorable Kenneth T. Cuccinelli, II
Attorney General

Charles E. James, Jr.
Chief Deputy Attorney General

G. Michael Favale
Deputy Attorney General
Public Safety and Enforcement Division

Steven T. Buck
Section Chief
Health Care Fraud and Elder Abuse Section

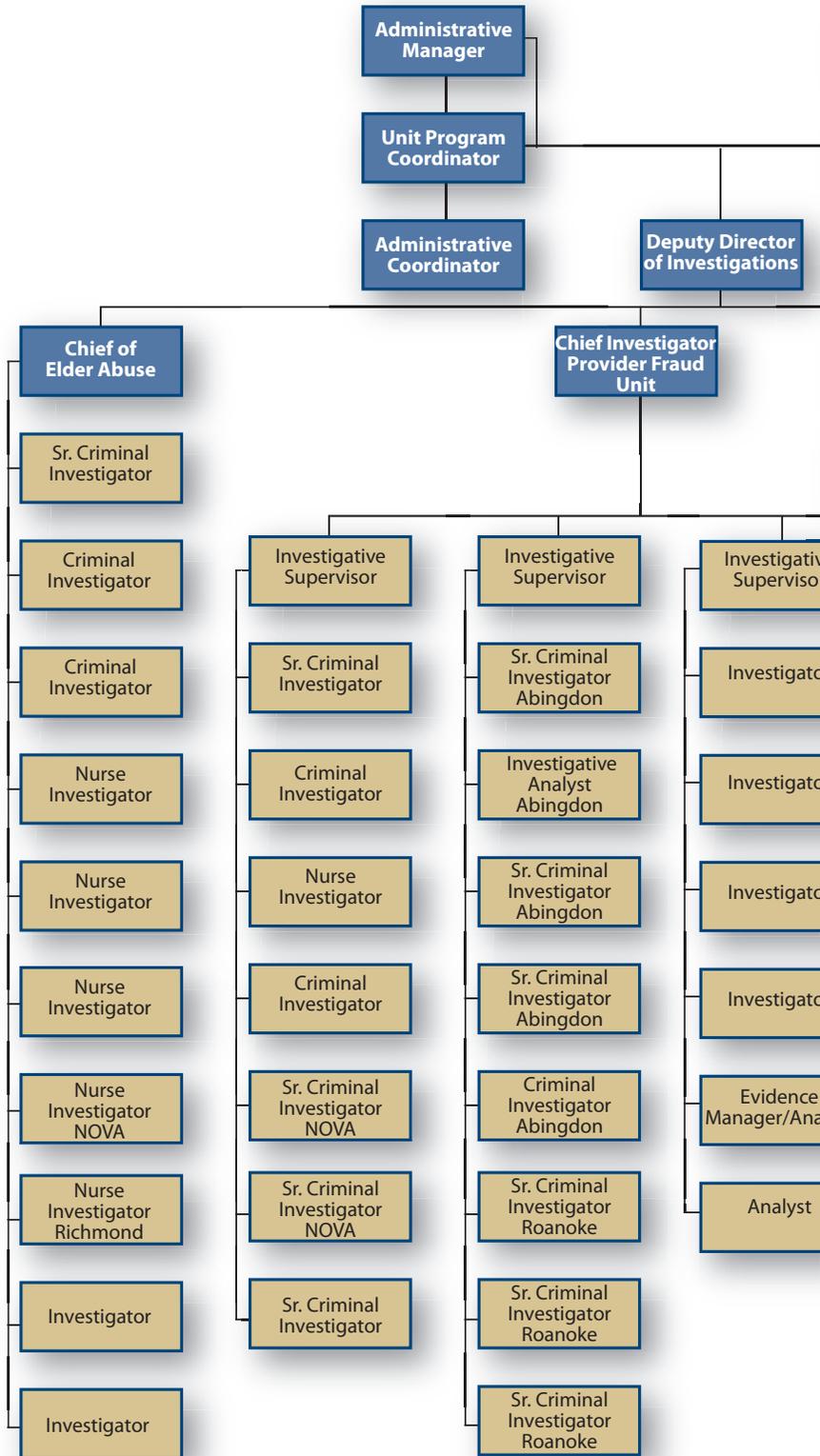
Randall L. Clouse
Director
Medicaid Fraud Control Unit

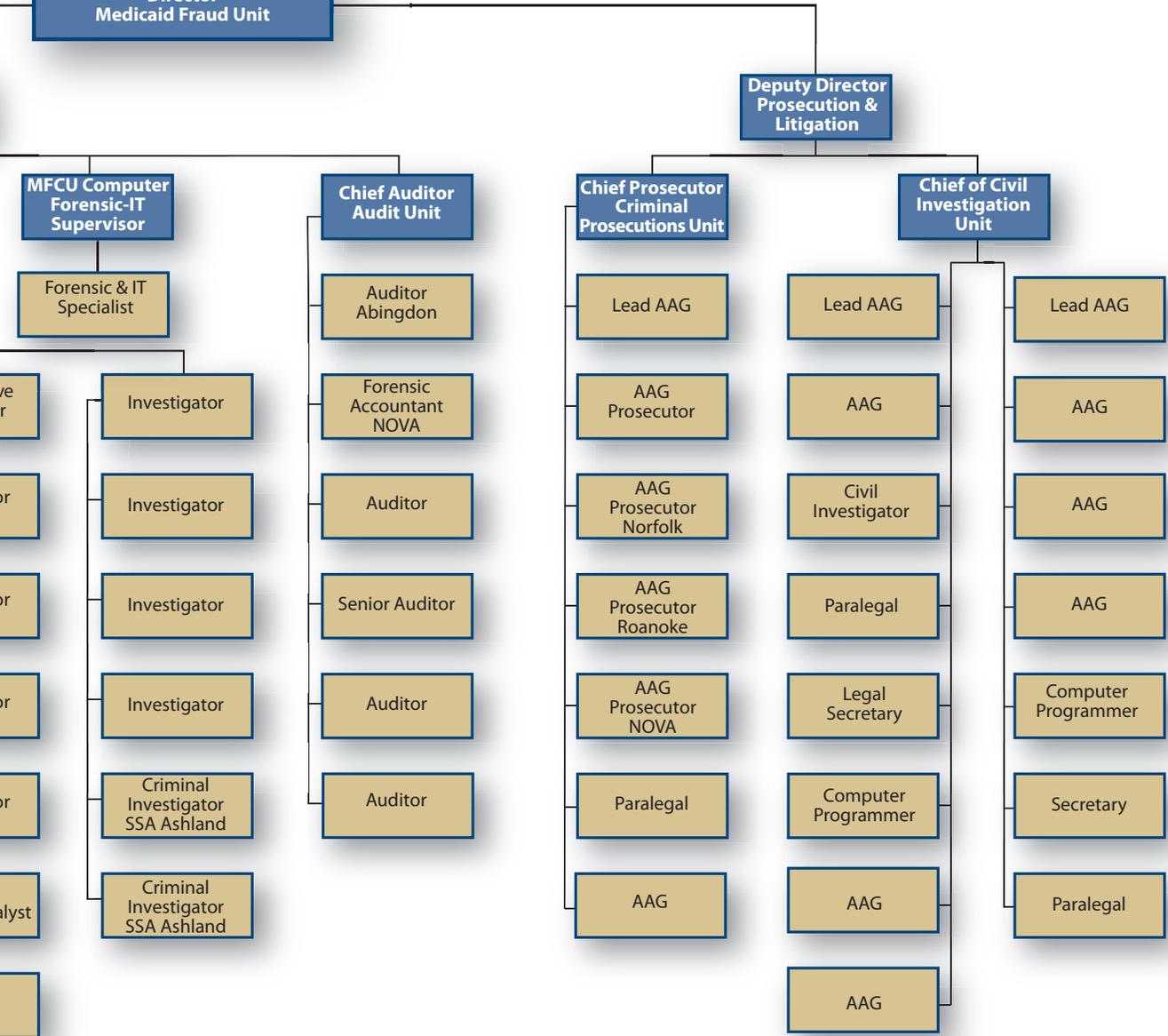
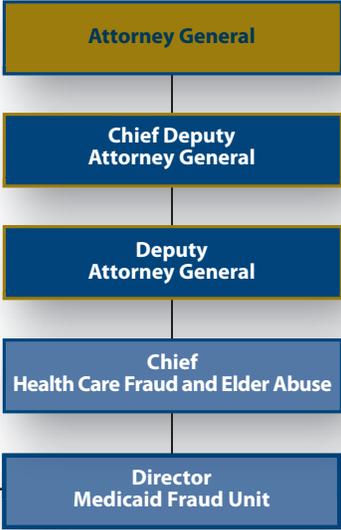
MFCU Director Randall L. Clouse



ORGANIZATIONAL CHART

Office of the Attorney General
 Public Safety and Enforcement Division
 Health Care Fraud and Elder Abuse Section
 Medicaid Fraud Control Unit
 June 30, 2010





SIGNIFICANT CASES

The following are brief summaries of significant cases that resulted in the successful convictions of numerous fraudulent healthcare providers in the Commonwealth during fiscal year 2009-2010.

CRIMINAL CASES

COMMONWEALTH V. BARBARA ANN NAPIER

CHECKER CAB A/K/A CHECKER EZ CAB

On December 3, 2009, Barbara Ann Napier (Napier) pled guilty to three counts of Medicaid Fraud (Va. Code § 32.1-314) and three counts of Obtaining Money by False Pretenses (Va. Code § 18.2-178) in Albemarle County Circuit Court. On March 23, 2010, Napier appeared in Albemarle County Circuit Court for sentencing. Napier was sentenced to 42 years' incarceration with 40 years suspended, leaving her an active term of 2 years' imprisonment. Additionally, Napier was ordered to pay \$420,000.00 in restitution. The Commonwealth's evi-

dence showed that from 2006 through 2008, Napier controlled the billing and management of Checker Cab. Checker Cab is a transportation company under contract with Medicaid HMO Virginia Premier to provide transportation services to Medicaid recipients. Napier overbilled Virginia Premier approximately \$420,000 by submitting false claims for reimbursement that reflected more miles than actually traveled. Further, Napier fraudulently represented that "after-hours" services were provided, when in fact services were provided during normal business hours.

COMMONWEALTH V. COLEMAN FLOYD

REMEDIES, INC.

On August 4, 2009, a Grand Jury sitting in the City of Norfolk, Virginia, indicted Coleman Floyd (Floyd) on four counts of Medicaid Fraud (Va. Code § 32.1-314). Floyd and his wife are the owners of Remedies, Inc., a durable medical equipment company operating in Norfolk. Remedies came to the attention of DMAS during a September 2006 audit of the company. The audit indicated that Floyd was billing for adult size diapers and briefs when pediatric diapers were being supplied. The MFCU's investigation showed Floyd took deliberate steps to upcode products supplied to his clients. The alleged loss to the Virginia

Medicaid Program was \$250,431.80. On December 2, 2009, in the Circuit Court for the City of Norfolk, Floyd pled guilty to four counts of Medicaid fraud, in violation of Va. Code § 32.1-314. Pursuant to a plea agreement, Floyd was sentenced to 12 years in the Department of Corrections with 11 years suspended, giving him a total active sentence of 12 months to be followed by a term of 12 years of supervised probation. Additionally, Floyd was ordered to pay \$250,431.80 in restitution to Medicaid and will be barred from participating as a health care provider.



COMMONWEALTH V. JAMES WILLIAM WRIGHT

NHC Healthcare

On August 25, 2009, James William Wright (Wright) was indicted for four counts of Aggravated Sexual Battery, in violation of Va. Code § 18.2-67.3, in connection with his employment at NHC Healthcare (NHC), a nursing facility in Bristol, Virginia. Wright was employed as a Certified Nursing Assistant (CNA) with NHC from 1999 to 2007. MFCU investigators uncovered multiple incidents of sexual misconduct involving Wright and elderly NHC residents. MFCU investigators were able to substantiate allegations of misconduct, identify eyewitnesses to Wright's conduct, and obtain an admission of misconduct from Wright himself. Wright sexually molested elderly residents under his care while employed with

NHC. On January 7, 2010, Wright entered an Alford guilty plea to four counts of aggravated sexual battery, in violation of Va. Code §18.2-67.3. On May 14, 2010, in Circuit Court for the City of Bristol, Wright was sentenced to serve 80 years with 20 years suspended (20 years with five years suspended on each charge) or 60 years' active incarceration for committing aggravated sexual battery against four elderly residents at NHC-Bristol. In addition, Wright was ordered to pay a \$10,000 fine for each of the four counts (a total of \$40,000), will be placed on probation upon release, and will be required to register as a sex offender.

COMMONWEALTH V. JOANN WILLIAMS

On September 15, 2009, the Court of Appeals of Virginia affirmed Joann Williams' (Williams) conviction for felony neglect of an incapacitated adult (Va. Code § 18.2-369). Williams was convicted in the Prince William County Circuit Court in Manassas, Virginia on January 7 and 8, 2008. On appeal, Williams argued she was not the "responsible party" under statute and that her conduct was not knowing and willful neglect. Williams was a Personal Care Assistant who was responsible for the care of a 55 year old incapacitated adult. Paramedics found her client in a recliner, with his shirt soaked in drool and his shorts soaked in urine. His legs were swollen and had untreated sores. When his discolored socks were removed, the paramedics found each foot was infested with hundreds of maggots. He did not appear to have been cleaned or bathed recently and the apartment was "very unsanitary," with cat feces, dirty dishes and trash in the kitchen. The client was unable to walk or speak and was transported to a local hospital and, due to his extremely poor hygienic condition, he had to be decontaminated prior to treatment. In addition to problems noted by paramedics, the

doctor found a large decubitus ulcer in the sacrum that had been developing for at least one month. Cultures from the examination established that the client had developed a heavy bacterial infection involving staph aureus involving the coccyx, right leg, and foot. He was hospitalized for a week and then discharged to a skilled nursing facility. The client died of Amyotrophic Lateral Sclerosis (ALS) (also known as "Lou Gerhig's Disease") complications in hospice a month later. The evidence at trial also established that Williams was paid to take care of the client, she was the only person that took care of him, and she had allegedly just cleaned him up the morning he was found by paramedics. In affirming her conviction, the Court found it was irrelevant that there were other "responsible persons" who may have also neglected him because the Commonwealth only had to prove that Williams was "a responsible person," and the Commonwealth had done so. The Court also found the evidence established Williams was aware of the client's condition and failed to care or seek care for him, and that her failures constituted knowing and willful neglect.



COMMONWEALTH V. KADIATU DIALLO

POTOMAC CENTER GENESIS ELDERCARE

On February 3, 2010, in the Arlington County Circuit Court in a jury trial, Kadiatu Diallo (Diallo) was found guilty of two counts of assault (Va. Code § 18.2-57). The jury sentenced Diallo to one day incarceration on each count and a \$2,500 fine on each count. Diallo was

charged with assault for throwing popcorn in a taunting and bullying manner at a resident at Potomac Center in Arlington. The patient was bedridden and suffered from dementia. Diallo was a Certified Nursing Assistant responsible for providing care for the patient.



COMMONWEALTH V. LINDA SLUSS BISHOP, LPN

Mountain Regional Care Services, Inc.

On June 23, 2009, Linda S. Bishop (Bishop) was indicted on one count of misdemeanor patient abuse (Va. Code § 18.2-369) by a Grand Jury in the Scott County Circuit Court, Scott County, Virginia. Bishop, a Licensed Practical Nurse, was employed by Mountain Regional Personal Care Services (MRPCS) in Duffield, Virginia, to care for an incapacitated Medicaid recipient. MRPCS reported the alleged abuse and an investigation was initiated. A MFCU investigator interviewed Bishop at her home. Bishop admitted to slapping the recipient out

of frustration. The investigation did not reveal that the recipient suffered serious bodily injury as a result of the assault. Bishop pled no contest to misdemeanor Abuse of an Incapacitated Adult (Va. Code § 18.2-369) and was sentenced on Monday, October 5th, 2009 in Scott County Circuit Court to 30 days in jail (suspended) and 24 months unsupervised probation (12 months with good behavior) to include an agreement not to perform home health care. Ms. Bishop was also ordered to pay all court fines/costs within the next 6 months.



Members of the Unit and others meet with Attorney General Kenneth T. Cuccinelli, II.

APPEALS

UNITED STATES V. MOHAMED A. ABDELSHAFI

592 F.3d 602 (4th Cir. 2010).

Mohamed A. Abdelshafi (Abdelshafi) was convicted in federal district court on fifteen counts of health care fraud, in violation of 18 U.S.C. § 1347, and two counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A. Abdelshafi, who owned and operated a medical transportation company, executed a scheme to defraud a Virginia Medicaid HMO by submitting: inflated reimbursement claims that reflected more miles than actually traveled and reimbursement claims for trips that never occurred. Abdelshafi's use of Medicaid recipient's names, dates of births, and Medicaid identification numbers on the fraudulent claim forms to establish legitimacy for the claims formed the basis for the charges of aggravated identity theft. On appeal, Abdelshafi contended that he could not be convicted of aggravated

identity theft because he did not steal the patient identifiers he used on claims for reimbursement; and that his sentence on the health care fraud counts should be vacated because he should not have received an enhancement for abusing a position of trust. The Fourth Circuit Court of Appeals, relying on the plain language of the statute, affirmed Abdelshafi's convictions holding that Abdelshafi's conduct fell within the purview of the aggravated identity theft statute. The Court determined that nothing within the plain language of the statute required that Abdelshafi steal the personal patient identifiers he used on his fraudulent claim submissions. The Court further ruled that the sentencing enhancement for abuse of a position of trust was correctly applied by the District Court.



The Commonwealth of Virginia's Wall of Honor honoring its Heroes who have died serving in the Global War on Terrorism. This touching tribute is housed in the Office of the Attorney General located in the Pocahontas Building in downtown Richmond.

DETAILED CASE SUMMARY

Criminal
July 1, 2009 – June 30, 2010

Category	Carried Over	Opened	Closed	Pending
Institutions				
Nursing Facilities	1	0	0	1
Hospitals	0	0	0	0
Other Institutions	1	0	0	1
Practitioners				
MD/OD	4	2	2	4
Dentists	1	0	1	0
Podiatrists	1	0	0	1
Psychiatrist/Psychologist	4	3	0	7
Other	0	0	0	0
Medical Support				
Pharmacy	0	1	0	1
Durable Medical Equipment	5	0	3	2
Laboratories	0	0	0	0
Medical Transportation	4	0	1	3
Home Health Agencies	8	15	5	18
Rehabilitation Therapists	0	0	0	0
Other	4	2	2	4
Patient Abuse and Neglect				
Patient Abuse	2	2	1	3
Corporate Neglect	5	3	4	4
Patient Funds				
Patient Funds	2	1	1	2
Total	42	29	20	51

CIVIL CASES

BEST PRICE FRAUD: AVENTIS SETTLEMENT

If a pharmaceutical company wants to be able to participate in the Medicaid program, the company must agree to report to the government their “best prices” for sales of their drugs to retail, for-profit customers. The company must rebate to state Medicaid programs the difference between the price initially charged Medicaid for their drugs and their Best Price (BP) for the drug during each year. If the drug company fails to report discounts or other payments offered to pharmacies or other providers, this failure could improperly reduce the rebate owed to a state’s Medicaid program by millions as illustrated by the settlement with Aventis Pharmaceuticals, Inc. (API).

API entered into a settlement agreement with the United States, Virginia, and other states to resolve claims in several *qui tam* cases filed in the United States District Court for the District of Massachusetts that alleged API committed BP fraud. The allegations concerned three drugs: Azamacort (triamcinolone acetonide), a steroid based anti-inflammatory nasal spray which prevents the release of substances in the body that cause inflammation and is used to prevent asthma attacks; Nasacort and Nasacort AQ (triamcinolone nasal), nasal sprays that are used for the relief of seasonal and year-round nasal allergy symptoms in adults and children as young as 2 years. All three drugs were manufactured and marketed by API and its predecessor, Rhône-Poulenc

Rorer Pharmaceuticals, Inc. (collectively referred to as API). API entered into private label sales contracts with other health care providers and sold the drugs to them at discounted prices and placed them in special packaging submitted for rebates under the other provider’s National Drug Codes (NDC) instead of API’s NDCs. API’s failure to report the discounted prices caused the states to receive lower rebates than they would have received if the discounts had been reported. By failing to include the discounts, API knowingly made false statements to decrease its obligations for payment to the Medicaid Program in violation of federal and state False Claims statutes. The settlement resolves false claims submitted by API from October 1, 1995 through September 30, 2000, during which time API reported to the Centers for Medicare and Medicaid Services (CMS) false BPs to avoid paying higher quarterly drug rebates to the states for Azamacort, Nasacort and Nasacort AQ.

Under the settlement agreement, API paid \$89,007,824 plus interest to settle potential federal and state claims, from which the United States received \$48,954,303, and the remaining \$40,053,521 was distributed to the states. Virginia’s state and federal share of the settlement was \$1,626,759.14. The Virginia Department of Medical Assistance Services received the state share of the settlement plus interest in the amount of \$818,432.84 in November, 2009.

CIVIL UNIT



Members of MFCU's Civil Unit include: (clockwise starting at the rear left) Erica Bailey, Michele Stanley, Bobby Powell, Kristy Knighton, Randy Davis, Angela Axselle, Mike Judge, Clay Garrett, Candice Hooper, Lelia Beck, Latarsha Tyler, and Tracey Sanders.

MEDICAID REBATE PROGRAM FRAUD: INNOVATOR V. NON-INNOVATOR CLASSIFICATION

Under the Medicaid Rebate Program, a participating pharmaceutical company is required to report the Average Manufacturer Price (AMP) and Best Price (BP) for each formulation of its outpatient prescription drug products to Center for Medicare and Medicaid Services (CMS). As defined in the rebate agreement, AMP means the average unit price paid to the manufacturer by wholesalers for drugs distributed to the retail pharmacy class of trade. "Best Price" is defined in the rebate agreement as the lowest price at which the manufacturer sells the drug to any purchaser in the United States in any pricing structure (including capitated payments), in the same quarter for which the AMP is computed. A company's rebate obligation is based on the number of prescription drug units paid for by each State's Medicaid program during the reporting period. CMS uses the AMP and BP data to determine the Unit Rebate Amount (URA); the amount to which Medicaid utilization information may be applied by states to invoice the drug manufacturer for the rebate payment. For innovator drugs, the URA is equal to 15.1% of the AMP or the AMP minus the Best Price, whichever

amount is greater. By contract, for non-innovator drugs, the URA is equal to 11% of the drug's AMP.

This settlement is based on the federal government's investigation of a *qui tam*, *United States ex rel. Ven-A-Care v. Ortho McNeil, et al.* (Case No. 06 – CV – 231 PB), that alleged several pharmaceutical manufacturers, AstraZeneca Pharmaceuticals, LP, Ortho-McNeil Pharmaceuticals, Inc., and Mylan Pharmaceuticals, LP, knowingly provided false data classifying certain drugs as non-innovator drugs for the purpose of paying lower rebate amounts. The submission of false rebate data violated the Federal False Claim Act, 32 U.S.C. §§ 3729 *et seq.*

The three companies agreed to pay Virginia a total of \$1,394,090.64 (AstraZeneca, \$65,568.00; Ortho-McNeil, \$37,899.55; and Mylan, \$1,290,623.09), which represents the federal and state share of the settlement. On October 30, 2009, each company paid the Virginia Department of Medical Assistance Services their respective share under the settlement agreement (AstraZeneca, \$36,193.88; Ortho-McNeil, \$20,994.37; and Mylan, \$665,571.05), which amounted to a total of \$722,759.30.



OFF-LABEL MARKETING AND KICKBACKS: PFIZER SETTLEMENT

Two common healthcare fraud schemes that health care fraud investigators encounter are off-label marketing and kickbacks. The two schemes are not only common, but often are used simultaneously toward the same end – increasing or maintaining market share. Off-label marketing occurs when a company publishes information concerning a drug product that is false, unsubstantiated or not supported by the drug's FDA-approved label. Although a doctor is free to prescribe a drug for an off-label use, a pharmaceutical company is prohibited from marketing a drug for off-label uses. *See* 21 U.S.C. § 331 (2007). The federal Anti-Kickback Statute, 42 U.S.C. § 1320-7b (b), bars transactions intended to encourage patient referrals or other business, or to compensate other parties for making those referrals using federal funds. Examples of illegal kickbacks may involve paid remuneration to physicians through speaker programs, preceptorship agreements, tutorials, and focus groups to reward physicians for writing prescriptions for a company's drugs. The investigation into the complaints regarding Pfizer that led to a settlement last year demonstrates how a pharmaceutical company may use off-label marketing and kickbacks toward the same end.

The Virginia MFCU assisted the National Association of Medicaid Fraud Control Units' Negotiating Team (NAMFCU) in negotiating a settlement following an investigation of off-label marketing and kickbacks by Pfizer, Inc. The civil settlement resolved fraud claims raised in seven *qui tam* cases filed in United States District Courts for the District of Massachusetts, the Eastern District of Pennsylvania, and the Eastern District of Kentucky. The false claims involved off-label marketing and kickback schemes used by Pfizer to promote the sales of Bextra, Lyrica, Geodon, and Zyvox; and kickback schemes to increase sales of Aricept, Celebrex, Lipitor, Norvasc, Relpax, Viagra, Zithromax, Zolofit and Zyrtec. Under the

settlement agreement, Pfizer paid \$1 billion plus interest to settle the civil claims in this case. Approximately \$705 million of that amount was set aside for state Medicaid damages and penalties.

The settlement covered false claims submitted to state Medicaid programs for reimbursement of Bextra, Geodon, Lyrica, and Zyvox prescriptions, which were caused by improper off-label marketing and kickback schemes. The settlement also included reimbursements of Aricept, Celebrex, Lipitor, Norvasc, Relpax, Viagra, Zithromax, Zolofit and Zyrtec prescriptions that were caused by unlawful kickbacks. A large portion of the civil settlement and the criminal plea were based on Pfizer's off-label marketing of Bextra, Geodon, Lyrica, and Zyvox. Under the terms of the settlement agreement, the United States received approximately \$668.4 million of the civil settlement. The remaining \$331.4 million was distributed to the states. Virginia's total federal and state Medicaid damages were \$11,887,143.19, of which \$5,645,383.26 represents the federal share and \$6,455,679.69 represents the amount paid to the Virginia Department of Medical Assistance Services under the settlement agreement.

As part of the settlement of the off-label marketing claims for Bextra, Pfizer's subsidiary Pharmacia & Upjohn Company pled guilty to a felony Information filed in the United States District Court for the Eastern District of Massachusetts. The Information charged Pharmacia with one-count of misbranding in violation of 21 U.S.C. §§ 331(a), 331(a)(1) and 335(f)(1) in that Pfizer marketed Bextra for treatment of non-FDA approved medical conditions. As part of its plea agreement, Pfizer agreed to pay record criminal fines and forfeitures of \$1.3 billion. The total state and federal civil and criminal resolution -- \$2.3 billion -- represents the largest recovery in a health care fraud investigation in United States history.



DETAILED CASE SUMMARY

Civil
July 1, 2009 – June 30, 2010

Category	Carried Over	Opened	Closed	Pending
Institutions				
Nursing Facilities	1	0	1	0
Hospitals	2	1	2	1
Other Institutions	0	0	0	0
Practitioners				
MD/OD	0	1	0	1
Dentists	1	0	0	1
Podiatrists	0	0	0	0
Psychiatrist/Psychologist	0	0	0	0
Other	2	0	0	2
Medical Support				
Durable Medical Equipment	8	8	1	15
Laboratories	4	6	0	10
Pharmaceutical Companies	122	60	26	156
Transportation	0	0	0	0
Home Health	2	0	0	2
Rehabilitation Therapists	0	0	0	0
Other	4	3	0	7
Patient Abuse and Neglect				
Corporate Neglect	0	1	0	1
Total	146	80	30	196

CASE ACTIVITY SUMMARY

The following is a brief statistical summary of cases investigated from
July 1, 2009 – June 30, 2010

Cases		
Cases carried over		188
Cases opened		
	Criminal	29
	Civil	80
Total		109
Cases Closed		
	With criminal resolution	8
	With civil resolution	8
	Insufficient evidence/no further action	34
Total		50
Indicted cases pending (7/1/2009)		5
Total cases pending (criminal and civil)		247
Criminal Prosecution/Recovery		
	Indictments (individuals)	22
	Convictions	13
	Dismissed	1
	Acquittals	1
	Total length of probation	940 months
	Total incarceration time	2433 months
	Total suspended incarceration time	2053 months
	Total hours of community service	0 hours
	Providers terminated from program	
	upon conviction	13
	Ordered restitutions, reimbursements, criminal fines and interest	\$826,580.16
Civil Recovery - including Affirmative Civil Enforcement (ACE)		
	Settlements/reimbursements received	\$24,563,887.05
	Investigative costs received	\$0
Total		\$25,390,467.21

ELDER ABUSE AND NEGLECT SQUAD

The Elder Abuse and Neglect Unit of the Virginia Attorney General's Medicaid Fraud Control Unit (MFCU) investigates allegations of abuse or neglect of elderly and incapacitated adults receiving Medicaid benefits in the Commonwealth. To keep up with a large caseload, two investigators and three nurse investigators will be added to the Unit after July 1, 2010 for a total staff of ten and the Chief. As a result of this networking effort, col-

legal relationships have developed between the MFCU and the various agencies, and referrals are arriving at a rapid pace. The Elder Abuse and Neglect Unit strives to ensure rapid response to referrals, effective investigations, and successful outcomes that will ensure Virginia's vulnerable adults receive the highest quality of care possible in both home and institutional settings.



Unit Program Coordinator Patricia Cooper-Lewis and Attorney General Kenneth T. Cuccinelli, II.



Paralegal Kimberly Wilborn and Administrative Coordinator Hamilton Roye.



UNIT PROJECTIONS

The MFCU has an outstanding working relationship with state, local and federal agencies. Some of the key partner agencies are the Department of Medical Assistance Services, the Offices of the United States Attorney for the Eastern and Western Districts of Virginia, the Federal Bureau of Investigations, Health and Human Services' Office of Inspector General, Internal Revenue Services' Criminal Investigation Division, the Virginia Department of Health Professions, the Virginia Department of Health, the Virginia Department of Social Services, and local law enforcement. Attorney General Kenneth T. Cuccinelli's and former Attorney General Bill Mims' approach to the investigation of major fraud cases, in conjunction with other state, local, and federal agencies, contributed to the positive results obtained by the Unit last year.

At the end of the 2009-2010 reporting year, the Unit had 51 active criminal investigations of healthcare

providers located throughout the Commonwealth. In addition, 22 have been indicted and were awaiting trial or sentencing in federal court. The Civil Investigations Squad had opened 80 new civil cases.

The Unit will continue to participate in joint federal and state task forces to investigate and develop complex cases dealing with provider fraud in the fee-for-service community and the institutional neglect cases of patients in nursing homes. The Unit will also continue to work closely with the Offices of the United States Attorney for the Eastern and Western Districts of Virginia, and the Affirmative Civil Enforcement Program to pursue Medicaid providers through the Federal False Claims Act and the Virginia Fraud Against Taxpayers Act. During state fiscal year 2010-2011, the Unit projects that the investigative, prosecutive, and civil recovery efforts of the Unit will result in 16 convictions, with combined criminal and civil recoveries of more than \$30,000,000.

VIRGINIA ATTORNEY GENERAL'S OFFICE

SPECIAL POINTS OF INTEREST:

- Services
- Case Spotlight

INSIDE THIS ISSUE:

- Types of Medicaid Benefits
- Who is eligible for Medicaid
- Where to report Medicaid fraud
- Where to report recipient fraud

Virginia Medicaid Fraud Control Unit

VOLUME 1, ISSUE 2 JUNE 2010

What Services are Provided Under Medicaid

Did you know that individual states determine what their respective Medicaid plans provide. However, there are some mandatory federal requirements that states must meet in order to receive federal funding matches. Those required services include:

- Inpatient hospital services
- Physician services
- Nurse-midwife services
- Nursing facility services for persons aged 21 or older
- Vaccines for children



- Prenatal care
- Outpatient hospital services
- Pediatric and family nurse practitioner services
- Home health care for persons eligible for skilled nursing services
- Rural health clinic services
- Laboratory and x-ray services
- Federally qualified health-center (FQHC) services and ambulatory services
- Family planning services and supplies
- Early and periodic screening, diagnostic, and treatment

States may also provide optional services such as:

- services for children under age 21
- Transportation services
- Home and community-based care to certain persons with chronic impairments
- Diagnostic services
- Prescribed drugs and prosthetic devices



If you suspect that Medicaid fraud or abuse, neglect or exploitation has occurred in a Medicaid facility or has been committed by someone working for a Medicaid provider, immediately report the incident to the Medicaid Fraud Control Unit (MFCU) of the Office of the Virginia Attorney General at 1-800-371-0824 or 804-371-0779.

In 2010, the MFCU began publishing a quarterly Newsletter that includes recent cases, tips, fact sheets and other pertinent information on Medicaid fraud and elder and patient abuse and neglect.

PROJECTIONS FOR 2010-2011 FISCAL YEAR

Category	Closed	Pending
Institutions		
Elder Abuse	3	8
Nursing Homes/Corporate Neglect	1	4
Hospitals	2	0
Home Health Agencies	7	3
Practitioners		
Dentists	0	0
Doctors	2	2
Psychiatrist/Psychologist	3	2
Other	10	10
Medical Support		
Durable Medical Equipment	11	5
Laboratories	5	2
Pharmacies/Pharmaceuticals	80	25
Medicaid Transportation	3	0
Rehabilitation Therapists	5	0
Total	132	61

Projected Criminal and Civil Recoveries \$30,000,000

Projected Criminal Convictions and Civil Recoveries 16

UNIT PERFORMANCE

In 1982, the United States Department of Health and Human Services certified the Virginia MFCU as the nation's thirty-first Medicaid Fraud Control Unit. Over the past twenty-eight years, the Virginia MFCU has been responsible for the successful prosecution of over 263 providers in cases that involved patient abuse and neglect or the commission of fraudulent acts against the Virginia Medicaid program. In addition to prosecuting those responsible for healthcare fraud and/or abuse, the Unit has recovered \$780,977,738.21 in criminal restitution, asset forfeiture, civil judgments, and settlements.

The Medicaid Fraud Control Unit was extremely successful in fiscal year 2009-2010, particularly through its participation in multi-agency investigations. The Unit ended the fiscal year with 13 convictions and total recoveries from criminal and civil investigations of \$25,390,467.21.

Three Year Recovery Statistics Per MFCU Employee

MFCU recovered an average of \$198,032,584.74 per year over the past three years. The MFCU has averaged 48 staff members per year over the past three years. The recovery average per filled MFCU position for the past three years is **\$4,124,678.85 per person.**



Section Chief for MFCU Steve Buck, Chief Prosecutor David Tooker, and Assistant Attorney General Eric Atkinson.

UNIT ACTIVITIES/EXPANSION

Social Security Task Force. The MFCU continues to participate in a pilot project with the Social Security Administration that investigates allegations of disability fraud involving the Social Security and Medicaid programs. This program began in 2003 and has been successful in its ongoing mission. The Social Security Administration pays all costs incurred by the MFCU, including salaries, benefits, and investigative costs. By preventing unqualified persons from receiving Social Security disability benefits, the Task Force saves the expenditure of unwarranted Medicaid funds. The Task Force finished the year with a five-year projected savings of over \$8.6 million to the Virginia Medicaid program.

Unit Growth. In the last fiscal year, the Unit received approval to hire 25 additional personnel to more effectively investigate allegations of fraud in the Virginia Medicaid program and pharmaceutical industry, as well as complaints of elder abuse and neglect in nursing homes. The MFCU has also taken a leading role in a multi-state case which should come to fruition in the next 6-9 months. Further, the MFCU's community outreach has begun and we have already seen an increase in referrals of fraud.

The MFCU Director has continued to serve on the Department of Health Professions Prescription Drug Monitoring Board and this year was re-elected Vice-Chairman. The MFCU Director is a member of NAMFCU's Global Case committee as well as the Performance

Standards Working Committee. Finally, the MFCU Director is Co-Chairman of NAMFCU's Personnel Committee.

During the fiscal year, the MFCU provided training sessions and presentations. The topics ranged from Medicaid fraud to patient abuse and neglect.

As part of MFCU's outreach efforts, the Unit developed a new brochure and quarterly newsletter. Letters were sent to every police chief and sheriff across the Commonwealth with copies of the brochure and newsletter and information on available Medicaid fraud awareness training for their departments and their communities.

A Deputy Director of the MFCU continues to serve as a member of the NAMFCU Training Committee. He is an instructor at both the Introductory and Practical Skills NAMFCU Medicaid Fraud Training programs.

Our Chief of the Elder Abuse and Neglect Squad serves on the Advisory Board of the Virginia Senior Medicare/Medicaid Patrol Project, for which the Virginia Association of Area Agencies on Aging received a three-year grant from the Administration of Aging. The intent of the project is to provide a Senior Fraud Patrol of volunteer professional retirees trained to identify Medicare and Medicaid fraud. The members of this group are available to provide presentations regarding Medicare and Medicaid fraud in their communities. The Chief also sits on the Education Committee for the National Adult Protective Services Association.



Paul Anderson, Deputy Director of Investigations and Audits.

ANNUAL CASE ACTIVITY SUMMARY

Fiscal Years 1982 through 2009

Total Criminal and Civil Recoveries,
including Affirmative Civil Enforcement Cases
(Ordered and Collected Reimbursements, Fines, Restitutions)

Fiscal Year	Total Recoveries
July 82 - June 83	\$5,600.00
July 83 - June 84	\$19,600.00
July 84 - June 85	\$15,300.00
July 85 - June 86	\$13,522.00
July 86 - June 87	\$82,136.00
July 87 - June 88	\$114,443.00
July 88 - June 89	\$237,583.00
July 89 - June 90	\$322,547.00
July 90 - June 91	\$312,207.00
July 91 - June 92	\$205,370.00
July 92 - June 93	\$387,064.00
July 93 - June 94	\$416,966.00
July 94 - June 95	\$400,280.00
July 95 - June 96	\$1,281,129.00
July 96 - June 97	\$2,275,542.00
July 97 - June 98	\$1,053,099.00
July 98 - June 99	\$2,577,045.00
July 99 - June 00	\$1,480,345.00
July 00 - June 01	\$37,612.00
July 01 - June 02	\$12,081,532.00
July 02 - June 03	\$11,848,871.00
July 03 - June 04	\$14,358,790.00
July 04 - June 05	\$10,578,111.00
July 05 - June 06	\$9,071,043.00
July 06 - June 07	\$117,704,247.00
July 07 - June 08	\$541,099,617.00
July 08 - June 09	\$27,607,670.00
July 09 - June 10	\$25,390,467.21
Total:	\$780,977,738.21

THREE-YEAR AVERAGE RECOVERED

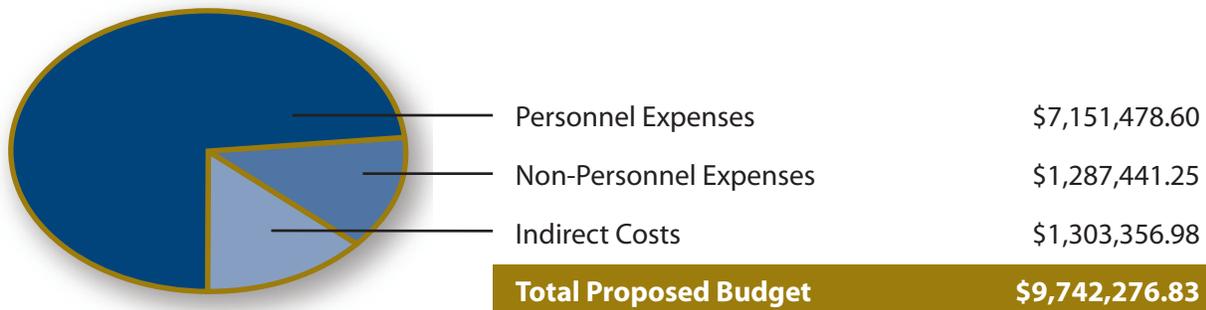
Per Number of Staff (per year)

Reporting Periods	Total Number of Employees	Number of Employees – Three Year Average
July 1, 2007-June 30, 2008	44	
July 1, 2008-June 30, 2009	49	
July 1, 2009-June 30, 2010	52	
		48

Three-Year Recovery Average (per year)	Number of MFCU Staff- Three Year Average	Three-Year Average Recovered Per Position (per year)
\$198,032,584.74	48	\$4,125,678.85 recovered per staffed position

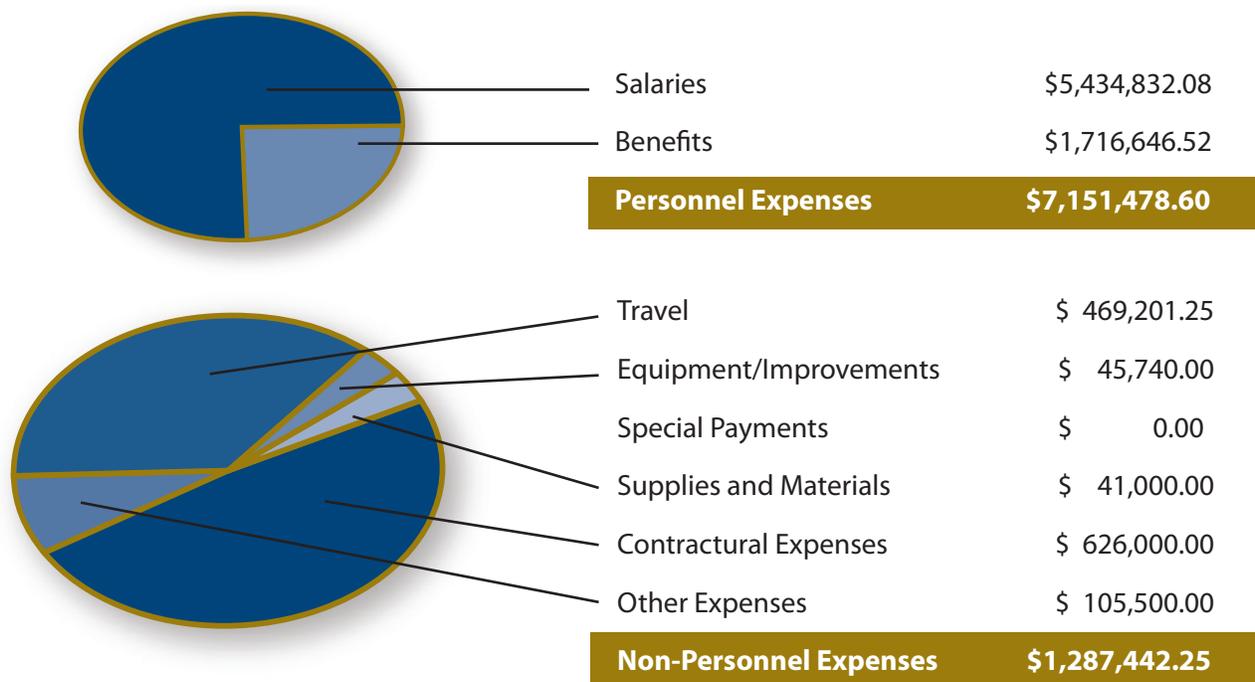
The three-year (2007–2009) recovery average for the Virginia MFCU is \$198,032,584.74 per year.

PROPOSED 2010-2011 BUDGET



PROPOSED 2010-2011 BUDGET

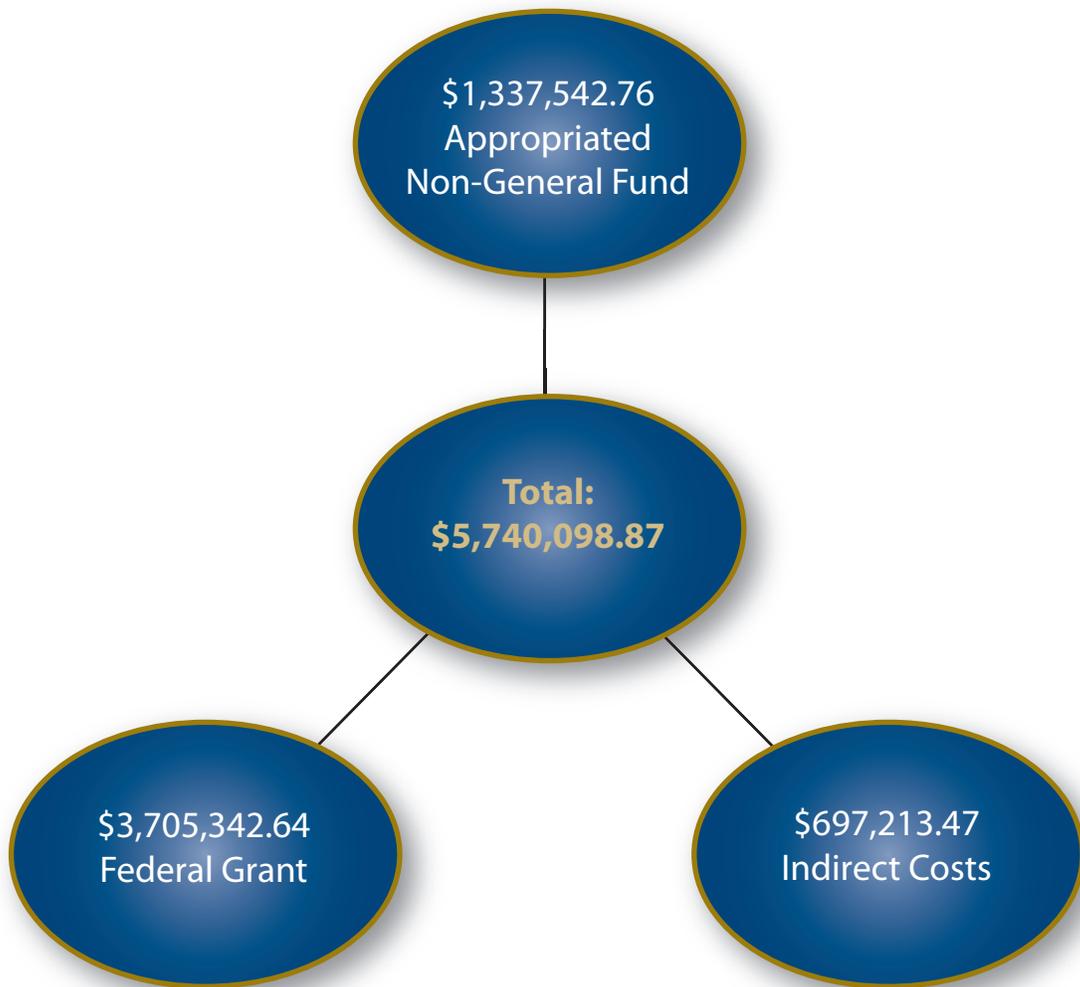
Category	Budgeted Amount
Personnel Expenses	
A. Salaries	\$5,434,832.08
B. Benefits	\$1,716,646.52
Personnel Expense Total	\$7,151,478.60
Non-Personnel Expenses	
A. Travel	\$ 469,201.25
B. Equipment/Improvements	\$ 45,740.00
C. Special Payments	\$ 0.00
D. Supplies and Materials	\$ 41,000.00
E. Contractual Expenses	\$ 626,000.00
F. Other Expenses	\$ 105,500.00
Non-Personnel Expense Total	\$1,287,442.25
Indirect Cost (24.3%)	
Indirect Cost Total	\$1,303,356.98
Grand Total	\$9,742,276.83



2009-2010 EXPENDITURES

July 1, 2009 – June 30, 2010

NON-GENERAL FUND/PURDUE	\$1,337,542.76
FEDERAL GRANT	\$3,705,342.64
INDIRECT COSTS	\$ 697,213.47
TOTAL	\$5,740,098.87



TRAINING

The Unit is committed to an aggressive training program for all staff members as a means of improving knowledge and skills in order ensure the highest quality investigations and prosecutions.

In order to achieve and maintain a high level of productivity from all staff members, training and continuing education have been built into staff development. Staff have participated in programs selected to meet their individual and professional requirements, as well as to meet the needs of the Unit. The following are brief descriptions of training programs attended by MFCU staff. A chart indicating dates and staff that attended is also included in this report.

MFCU staff also provided training to various groups. A description of those presentations as well as a chart of dates and presenters follows.



TRAINING PROVIDED

Introduction to Medicaid Fraud – 101 Training. Assisted with providing attendees training on medical records/ health care terminology; overview of MFCU program; working with claims data; fraud in institutional settings and financial abuse of patients; managed care; provider fraud schemes; practical exercise; medicaid fraud case studies; preparing cases for prosecution; overview of resident abuse investigative techniques.

Medicaid Fraud Control Unit's In-House Training. Topics included review of administrative, training and outreach matters; review of travel regulations; significant cases; federal forfeiture; *Jencks* and *Giglio* cases; Dependable Home Health Care; role of ppl within DMAS; granny cams and the law; represented parties; case management and service facilitation; and case reviews.

Medicaid Fraud Investigation. Spoke about the history of Medicaid and why Medicaid Fraud Control Units were started in 1977 by Congress. Discussed different types of Medicaid fraud and what the Virginia MFCU investigates. Talked about our main office in Richmond and the satellite offices and work throughout the Commonwealth.

Medicaid Fraud Control Unit – Overview – Before the Virginia Association of Personal Care Providers Ninth Annual Conference. Overview of the MFCU, the elements of health care fraud, and examples of fraudulent activities normally found in a personal care provider fraud case. Additionally, a case example was provided and discussed. Lastly, MFCU contact information was provided. Audience consisted of Medicaid providers of personal care.



Director Randy Clouse provides an overview of the MFCU to the Attorney General's Office's summer legal interns.

DATES AND PERSONNEL PROVIDING TRAINING

Date	Program	Personnel
7/28-31/09	NAMFCU Practical Skills Program	One Deputy Director
9/16/09	Medicaid Fraud Investigation	One Criminal Investigator
10/27-29/09	Introduction to Medicaid Fraud – 101 Training	One Deputy Director
11/19/09	Virginia Association of Personal Care Ninth Annual Conference – Overview of MFCU	One Chief Investigator
1/11-14/10	MFCU In-House Training	One Manager Two Deputy Directors One Director One Assistant Attorney General One Chief of Criminal Investigations One Nurse Investigator One Chief Counsel and Section Chief
2/23-25/10	Introduction to Medicaid Fraud – 101 Training	One Deputy Director



The Virginia Attorney General's Office hosts a statewide campaign in the legal community to collect food for the poor known as the Legal Food Frenzy.

TRAINING RECEIVED

A Day in Discovery–Win Your Case Before Trial (Virginia CLE). Provided information to litigators who spend more time in discovery and case preparation than almost anything else and provides them with an organized system approach. Covered the basics but also provided innovative and challenging techniques that can help even the most experienced practitioners.



Adobe Tips and Tricks. Provided information on PDF creation, search, annotations and comments, working with PDFs and web.

Alternative Dispute Resolution (ADR). A presentation on effective use of ADR. The presentation identified relevant terms and concepts as well as procedural guidance for the utilization of ADR.

American Bar Association’s Annual Litigation Institute for Trial Training. Topics included review of opening statements, examination of witnesses, jury selection, direct and cross examination, closing arguments, building themes and the art of persuasion.

American Bar Association’s Anti-Kickback Law Basics Teleconference. Provided attorneys information on the history and purpose of the anti-kickback statute, how to apply it, and comparison of the anti-kickback statute to other fraud and abuse laws. The course enhanced the attorneys’ abilities to investigate and prosecute the cases assigned to the MFCU.

American Bar Association’s Health Care Fraud Conference. Topics included foundations of health law and health care reform, foundations of white collar law and practice and handling a health care fraud case, health care reform, and health care fraud enforcement.

American Bar Association’s Institute on White Collar Crime. Topics included sentencing in white collar criminal case and witness/victim rights, trying cases in the post-Madoff landscape, corporate charging decisions, obstruction of justice and making false statements, and rising trends in health care fraud enforcement.

Before you Take the Plunge – What you Need to Know about Patent, Copyright and Trademark Costs. Session covered demonstrative evidence and electronic presentation of exhibits at trial.

California District Attorneys Association’s Elder Abuse Symposium. Topics included training in elder medical issues, medical evidence and experts, interagency cooperation in prosecuting elder abuse cases, and cooperation between social workers and law enforcement, among other topics.

Case Generation: Medicare Fraud Strike Force (MFSF) and Projects to Deter Health Care Fraud. Topics included developing innovative enforcement solutions, evaluating and developing policies and strategies for program integrity safeguards, and educating federal agents and attorneys on legal development in the areas of fraud and abuse enforcement.

Civil Discovery Institute. Provided a comprehensive look at civil discovery issues to enhance practice skills and develop strategies. The seminar focused on the most significant issues in civil discovery, including: an important update on civil discovery issues, provided an opportunity to network and hear from experienced faculty of trial practitioners, in-house counsel, and judges, and provided sample forms and briefs.



Clearwell/Document Management Training. Topics included information on Clearwell System and managing legal, regulatory, and investigative matters, and interagency data analysis. Covered how to accelerate document processing.

Criminal E-Discovery. Presentation on most common issues and best practices surrounding E-Discovery.

Crime Victims’ Rights Act Presentation. Presentation provided through the Virginia State Bar on rights and responsibilities of crime victims and witnesses under the Crime Victim and Witness Rights Act and related laws.

TRAINING RECEIVED

Cyber Security Awareness Training. Training on cyber security, scareware, strong passwords, protecting your computer, recognizing and avoiding spyware, protecting your privacy, avoiding social engineering and phishing attacks, guidelines for information security and Internet usage, securing a wireless network and other matters dealing with cyber security.

Department of Medical Assistance Services Cost Report Training. Training provided prosecutors and agents information on how health care institutions that bill both Medicaid and Medicare can commit health care fraud by falsifying reports.

Department of Medical Assistance Services Pharmacy and Preferred Drug List Program. Provided overview of Medicaid drug rebate program, pharmacy claims processing, special claims processing procedures, Mandatory Generic Program, Maximum Allowable Cost Program, Specialty Maximum Allowable Cost Program, ProDUR Program update, over the counter medications, Medicare Part D Prescription Drug Program, Preferred Drug List Program, miscellaneous pharmacy management information, and Preferred Drug List Program.

Department of Medical Assistance Services SAS Users Group. Overview of changes in SAS file and system.



Department of Social Services APS Workers Team Meeting. Provided information on APS referral guidelines, what to refer, and what not to refer.

Excel Training. Topics included Excel training, sorting, subtotals, and pivot tables.

Health Care Fraud. Topics included hospital cost reports, DME case preparation, organized crime in health care fraud, and durable medical equipment, prosthetics, orthotics, and supplies fraud.

Health Care Fraud and Abuse: What you Need to Know. Topics included overview of health care fraud from a defense standpoint and recent amendments. Also, discussed kickbacks and overpayments as well as health care reform bill of 2010.

How to Introduce Typical Trial Exhibits and Use Them Effectively. Topics included overview of trial exhibits and how to use them effectively at trial, authentication, the hearsay rule, and the best evidence rule.

“How Well Do Law Firms Handle Digital Information as Evidence?” Webinar. Topics included delivery of truly defensible standards of care – collaborating with company’s IT, records management and information security functions and improving and being accountable in managing digital information as evidence through disciplined methodology.

Investigation and Discovery. Presentation included identifying potential witnesses and potential jurors. Information to use when trying to serve a subpoena on an elusive witness.

John E. Reid: Interview and Interrogation Techniques. Training featured a discussion of three primary topics: behavior symptom analysis (the verbal and nonverbal behavioral characteristics which can be used to distinguish a truthful person from a deceptive individual), the Behavior Analysis Interview (a non-accusatory interview process utilizing both investigative and behavior provoking questions); and, the Reid Nine Steps of Interrogation.

John E. Reid: Lawyers’ Institute of Forensic Interviewing. Training provided attorneys a continuing education program in advocacy, which adapts non-coercive criminal interrogation methods for elicitation of information within forensic setting of depositions, jury selection, direct/cross examination, and witness statements.

Legal Research for Non-Lawyers; Case Law. Covered the structure of both federal and state court systems, courses of case law and how to find and validate case law.

Lexis-Nexis Concordance. Overview of concordance fundamentals and concordance administrative fundamentals.

TRAINING RECEIVED

Managing a Large Document Review for Paralegals. Overview of challenges regarding volume data, globalization of data sources, short time frames, limited budgets, confusing variety of solutions, traditional vs. technical approach, how to estimate size of collection, planning the collection project, collection of documents, reducing scope of a document collection, documenting the process, effective management, and shortened review timeframes.

Master Lexis.com. Provided information on powerful tools and proven techniques to help make research more efficient and cost effective.

Medicaid Fraud Control Unit's In-House Training. Topics included review of administrative, training and outreach matters, review of travel regulations, significant cases, federal forfeiture, *Jencks* and *Giglio* cases, Dependable Home Health Care, role of ppl within DMAS, granny cams and the law, represented parties, case management and service facilitation, and case reviews.

National Adult Protective Services Association Conference. Provided information to enhance job skills and provided opportunities to exchange knowledge and ideas with other professionals, addressed major concerns and issues related to elder/adult abuse and neglect, elevated public awareness of abuse, neglect, and exploitation of elderly persons and persons with disabilities, fostered collaboration among those who serve, treat, or represent victims of elder abuse.

National Advocacy Center Conference: Federal Practice Seminar. Provided new federal prosecutors the principles governing the prosecution and trial of federal criminal cases. Lecture topics included drafting complaints, indictments, search warrants, grant jury practice pre-trial discovery and motion practice, the use of cooperating defendants, plea bargaining, evidence, federal sentencing guidelines, and asset forfeiture.

National Advocacy Center Conference: Intermediate Criminal Trial Skills. Conference provided an intensive advocacy skills program designed for new federal prosecutors with previous trial experience as a state court prosecutor or Judge Advocate General and who will be responsible for trial of criminal cases. Seminar utilized lectures, skills exercises, critiques, and trial strategy sessions. Classroom and video critiquing was also utilized.

National Advocacy Center Conference: Legal Information Technology for Attorneys Seminar. Course focused on providing prosecutors with basic skills needed to manage a case electronically from indictment/complaint to trial using software that is currently available to all U.S. Attorneys Offices. The training covered IPRO, Concordance, CaseMap, TimeMap, PowerPoint, and Sanction II.

National Association of Medicaid Fraud Control Unit's Annual Conference. Topics included review of national trends and cases involving both Medicaid fraud and patient abuse.

National Association of Medicaid Fraud Control Unit's Director's Symposium. Topics included performance standards, data mining by MFCUs, on-site visits, amending the MFCU federal regulations, training requirements for MFCUs federal funding grant issues, dialogue with National Association for Medicaid Program Integrity and Medicaid Integrity Contractor's representative, Medicaid and 340B programs and implications of manufacturer miscalculations, Federal False Claims Amendment and DRA review, and global case training.

National Association of Medicaid Fraud Control Unit's Global Case Committee Meeting. Committee is responsible for overseeing the appointment and staffing of settlement teams for government healthcare fraud cases impacting the Medicaid program. The committee is also responsible for organizing and presenting training seminars for attorneys in the member states.

National Association of Medicaid Fraud Control Unit's Introduction to Medicaid Fraud – 101 Training Program. Topics included review of medical records/health care terminology, overview of MFCU program, working with claims data, fraud in institutional settings and financial abuse of patients, managed care, provider fraud schemes, practical exercise, Medicaid fraud case studies, preparing cases for prosecution, and overview of resident abuse investigative techniques.



TRAINING RECEIVED

National Association of Medicaid Fraud Control Unit's Introduction to Medicaid Fraud – 102 Training Program.

Training was designed for all Medicaid fraud investigators and prosecutors to attend training after garnering significant experience in the Medicaid Fraud Control Unit. The Medicaid fraud federal grant requires each MFCU to meet certain performance standards. One of the performance standards is to demonstrate that each state's



MFCU fully and appropriately trains employees on how to investigate and prosecute Medicaid provider fraud.

National Association of Medicaid Fraud Control Unit's Investigating and Settling Global Cases Training.

Training is for NAMFCU Global Case Team members to provide them with guidance about issues pertaining specifically to global case investigations, intervention and litigation. Training topics included: intake process, utilization review, relator's interviews, and multi-agency coordination, building partnerships between NAMFCU teams, relators and the feds, panel of federal representatives, working with relators and DOJ, intervention/litigation, investigative plan, document organization, review and analysis, and introduction to data analysis.

National Health Care Anti-Fraud Association 2009 Annual Training Conference.

Topics included developing patients as witnesses, detecting deception, active listening skills, investigation of the year, match your investigation capacity against the cases with the highest potential, Medicaid fraud control unit panel, emerging health care fraud schemes, dental fraud, health care fraud investigations in the United Kingdom, grooming witnesses for court, reading the signs that someone is being untruthful, learning to listen as to what is really being said, fraud detection and investigations, anti-fraud technology and services, legal, regulatory and management of cases, fraud detection and investigations in specialty areas, clinic issues of the health care fraud investigator, case review, and fraud detection and investigations.

National Health Care Anti-Fraud Association's Fundamentals Academy for Health Care Fraud Investigators Part 1 and 2.

Examined the anatomy of an investigation. Investigators and law enforcement personnel learned how to do the following: examine sources for health care fraud leads, assess the potential of a case, develop an investigative plan, and utilized evidence-gathering techniques for both internal and external information. The faculty reviewed successful interviewing techniques, addressed elements of a good report, examined the steps to prepare a case for prosecution, and discussed how to evaluate the evidence and determine the final action. Explored common health care fraud schemes including upcoding, unbundling, doctor shopping, phantom billing, and common specialty area schemes. Faculty also explored issues surrounding quality of care and unnecessary medical procedures and discussed medical record terminology and medical record review. Participants had an opportunity to test their acquired skills through an interactive case study.

National Health Care Anti-Fraud Association's Investigation and Management Seminar.

Training provided managers and senior investigators, and law enforcement supervisory staff an in-depth opportunity to discuss high-level topics and emerging trends specific to health care fraud investigation management. Explored leadership and communication skills to engage in peer to peer discussion on the best management strategies.



TRAINING RECEIVED

National Health Care Anti-Fraud Association Training Webinar. Topics included detecting deception and patient interviewing skills. Broke down the interviewing process to its basic core concepts and discussed how to apply these techniques to expose medical fraud and abuse through patient interviews. Learned how to identify the many ways witnesses use evasive and deceptive responses to avoid answering questions, listen for indirect admissions and expose deception during witness interviews.

National Institute on Healthcare Fraud 20th Annual Conference. Topics included coverage of foundations of health law and health care reform, foundations of white collar law and practice and handling a health care fraud case, health care reform and health care fraud enforcement, government enforcement panel, fraud enforcement and recovery act and false claims act developments, negotiating corporate integrity agreements, state enforcement and Medicaid fraud, pharmaceutical and medical device fraud and abuse, criminal and civil enforcement of anti-kickback statute, negotiating complex civil settlements, trial practice demonstration, federal sentencing guidelines and criminal and civil damage, affirmative responses to government investigations, grand jury investigations, search warrants and subpoenas, the role of compliance officers, general counsel and management and the board, litigating false claims act cases, workshop for defense and in-house counsel, workshop for government counsel, workshop for qui tam/relators' and other plaintiff's counsel, voluntary disclosure and cooperation in government investigations, and ethical issues in criminal and civil fraud cases.

Office of Inspector General, U.S. Department of Health and Human Service's Administrative Training Conference. Provided guidance to state MFCU management personnel and agency administrative staff on issues and concerns that relate directly to the oversight responsibilities of the HHS-OIG, MFOD federal oversight role, federal reporting requirements, and budget administration.

Pressure Ulcer Management: Clinical and Legal Competence Course. Training addressed critical issues in wound care that is relevant to investigations in the Elder Abuse Squad. Provided eight risk factors for the development of pressure ulcers, identified three lab tests relevant to the management of patients with pressure ulcers, examined how to appropriately stage/classify pressure ulcers.

Professional Responsibility CLE on JTN: A Prosecutor's Disclosure Obligations. Session focused on interplay of Model 3.8(d), ABA Model Rules of Professional Conduct and *Brady/Giglio* issues.

SAS Programming Introduction: Basic Concepts Course. Provided training on planning and writing sample SAS programs to solve common data analysis problems, creating simple list and summary reports, defining new data columns (variables), executing conditional code, and navigating through the SAS windows environment.

Taxpayers Against Fraud (TAF) Conference. TAF is a national, nonprofit, public interest organization comprised mainly of relator's attorneys who assist in combating fraud against federal and state governments through the promotion and use of the Federal False Claims Act. Conference provided an opportunity for federal and state government attorneys to learn from relator's attorneys that Virginia MFCU works closely with in *qui tam* cases.

The Power of PowerPoint for Paralegals: Creating an Effective Trial Presentation. Training focused on training for paralegals to assist the attorneys and investigators in both civil and criminal cases and PowerPoint presentations that are occasionally required.



TRAINING RECEIVED

United States Attorney's Office's Client Privilege Training. Topics included ethical duties of lawyers with respect to privilege, applicable statutes and ABA Model Rules, and the common issues and practical tips surrounding attorney-client privilege.

United States Department of Justice's Office of Legal Education Evidence for Criminal Litigators, Part 8. Topics included sharpening the pretrial and evidence skills of attorneys assigned to criminal cases in and out of the courtroom. Seminar reinforced basic principals in constitutional issues, admissibility, cross-examination/impeachment, relevance, character evidence, hearsay, and lay and expert opinions. Part 8 of this series discussed privileges recognized in federal proceedings and the elements of each such privilege. Presentation included information on how government attorneys should respond when a defendant or witness asserts an evidentiary privilege.

Virginia Association of Personal Care Providers Ninth Annual Conference. Topics included elements of health care fraud, examples of fraudulent activities normally found in a personal care provider fraud case.

Virginia State Bar Association's Health Law Update. Provided a legislative update during which members of the Virginia government present information and respond to questions from attendees. Sponsored by Virginia Bar Association's Health Law Section.

Worth a Thousand Words – Demonstrative Evidence and Electronic Presentation of Exhibits at Trial. Presentation on how to use PowerPoint, paper boards, and other types of exhibits at trial.



DATES AND PERSONNEL ATTENDING TRAINING

Date	Program	Personnel
7/9-10/09	American Bar Association's Annual Litigation Institute for Trial Training	One Assistant Attorney General
7/9-10/09	SAS Programming Introduction: Basic Concepts Course	One Assistant Attorney General
7/14/09	Excel Training	One Investigator
7/14-17/09	National Advocacy Center Conference: Legal Information Technology for Attorneys Seminar	One Assistant Attorney General
7/28-31/09	National Association of Medicaid Fraud Control Unit's Introduction to Medicaid Fraud – 102 Training Program	One Assistant Attorney General Five Investigators One Auditor
7/31/09	Health Care Fraud	One Investigator One Forensic Auditor
8/3-7/09	National Advocacy Center Conference: Intermediate Criminal Trial Skills	One Assistant Attorney General
8/13-14/09	Lexis-Nexis Concordance	One Paralegal
8/14/09	Civil Discovery Institute	Four Assistant Attorneys General
8/17-20/09	Office of Inspector General, U.S. Department of Health and Human Service's Administrative Training Conference	Director One Program Coordinator
9/9-11/09	John Reid School of Interviewing and Interrogation	One Nurse Investigator
9/10/09	Department of Medical Assistance Services Pharmacy and Preferred Drug List Program	Three Investigators One Assistant Attorney General
9/13-17/09	National Association of Medicaid Fraud Control Unit's Annual Conference	Director One Deputy Director One Chief Counsel and Section Chief
9/15/09	Department of Social Services APS Workers Team Meeting	One Investigator
9/17/09	The Power of PowerPoint for Paralegals: Creating an Effective Trial Preparation	One Paralegal
9/22/09	Legal Research for Non-Lawyers; Case Law	One Paralegal
9/28-10/2/09	National Health Care Anti-Fraud Association's Fundamentals Academy for Health Care Fraud Investigators Part 1 and 2	Three Senior Investigators One Investigators
7/10/09 8/7/09 9/11/09 10/2/09 11/6/09 12/4/09 2/5/10 3/5/10 4/2/10 6/4/10 6/25/10	Department of Medical Assistance SAS Users Group	One Investigator

DATES AND PERSONNEL ATTENDING TRAINING

Date	Program	Personnel
9/29/09	How to Introduce Typical Trial Exhibits and Use Them Effectively	One Assistant Attorney General
10/6/09	John E. Reid: Lawyers' Institute of Forensic Interviewing	Five Assistant Attorneys General
10/12-14/09	Taxpayers Against Fraud Conference	One Assistant Attorney General
10/13/09	Before You Take the Plunge – What you Need to Know about Patent, Copyright and Trademark Costs	One Assistant Attorney General
10/16/09	A Day in Discovery – Win Your Case Before Trial (Virginia CLE)	Four Assistant Attorneys General
10/20/09	National Association of Medicaid Fraud Control Unit's Global Case Committee Meeting	One Assistant Attorney General
10/26/09	National Advocacy Center Conference: Federal Practice Seminar	One Assistant Attorney General
10/26-30/09	National Adult Protective Services Association Conference	Chief of Elder Abuse and Neglect Squad One Nurse Investigator Two Investigators
10/27-29/09	John E. Reid: Interview and Interrogation Techniques	Two Investigators
10/27-30/09	NAMFCU Introduction to Medicaid Fraud Training Program	One Assistant Attorney General One Investigator Supervisor
11/10/09	Pressure Ulcer Management: Clinical and Legal Competence Course	Two Nurse Investigators
11/13/09	Adobe Tricks and Tips	One Paralegal
11/16-20/09	National Health Care Anti-Fraud Association 2009 Annual Training Conference	Three Investigators
11/19/09	Virginia Association of Personal Care Providers Ninth Annual Conference	Administrative, Training and Outreach Manager One Investigator One Program Coordinator
12/1-4/09	California District Attorneys Association's Elder Abuse Symposium	One Nurse Investigator One Investigator
12/17/09	Investigation and Discovery	One Paralegal
1/11-14/10	Medicaid Fraud Control Unit's In-House Training	Two Coordinators Director Two Paralegals One Manager Ten Assistant Attorneys General Seventeen Investigators Four Auditors Two Criminal Analysts Two Nurse Investigators One Forensic Supervisor

DATES AND PERSONNEL ATTENDING TRAINING

Date	Program	Personnel
2/23/10	National Health Care Anti-Fraud Association Training Webinar	One Investigator One Senior Investigator
2/23-25/10	National Association of Medicaid Fraud Control Unit's Introduction to Medicaid – 101 Training Program	Two Managers
2/24-26/10	American Bar Association's Institute on White Collar Crime	One Assistant Attorney General
2/28/10	Managing a Large Document Review for Paralegals (Webcast training)	One Paralegal
3/2-5/10	NAMFCU Medicaid Fraud 102 Training Program	Two Criminal Investigators Two Senior Criminal Investigator One Assistant Attorney General
3/2/10	Case Generation: Medicare Fraud Strike Force and Projects to Deter Health Care Fraud	One Assistant Attorney General One Deputy Director and Assistant Attorney General
3/10/10	United States Attorney's Office's Client Privilege Training	One Assistant Attorney General
3/11/10	American Bar Association's Anti-Kickback Law Basics Teleconference	Four Assistant Attorneys General
3/11/10	United States Department of Justice's Office of Legal Education Evidence for Criminal Litigators, Part 8.	One Assistant Attorney General
3/17/10	Professional Responsibility CLE on JTN: A Prosecutor's Disclosure Obligations.	One Assistant Attorney General
3/22/10	NAMFCU Global Case Committee Meeting.	One Chief and Assistant Attorney General
3/23/10	Worth a Thousand Words – Demonstrative Evidence and Electronic Presentation of Exhibits at Trial.	One Assistant Attorney General
3/24/10	Virginia SAS Users Group	One Investigator
3/24-25/10	National Association of Medicaid Fraud Control Units' Directors Symposium	Director
4/1/10	How Well Do Law Firms Handle Digital Information as Evidence" Webinar	One Criminal Investigator
4/12-14/10	ABA Health Care Fraud Conference	One Assistant Attorney General One Civil Investigator
4/21/10	Crime Victims' Right Act Presentation	Two Assistant Attorneys General
4/27/10	Master Lexis.com	One Paralegal
5/4-6/10	NAMFCU Investigating and Settling Global Cases Training	One Assistant Attorney General
5/11-15/10	National Institute on Health Care Fraud 20th Annual Conference	Two Assistant Attorneys General One Civil Investigator
5/11/10	Alternative Dispute Resolution	One Assistant Attorney General
5/11/10	Criminal E-Discovery	One Assistant Attorney General

DATES AND PERSONNEL ATTENDING TRAINING

Date	Program	Personnel
5/12/10	Virginia Health Law Update	One Assistant Attorney General
5/27/10	John E. Reid: Interview and Interrogation One Day Advanced Course	Two Investigators
6/3/10	Department of Medical Assistance Services Cost Report Training	One Assistant Attorney General
6/3/10	Health Care Fraud and Abuse: What You Need to Know	One Paralegal
6/7-10/10	National Association of Medicaid Fraud Control Unit's Global Case Meeting	One Assistant Attorney General
6/22/10	Investigation and Management Seminar	One Investigative Supervisor
6/28-29/10	Clearwell/Document Management Training	One Computer Programmer One Evidence/Manager Analyst
6/1-29/10	Cyber Security Awareness Training	All MFCU Staff



Medicaid Fraud Control Unit Brochure

Agency Street Address:

Virginia Attorney General's Office
900 East Main Street
Richmond, Virginia 23219
(804) 786-2072 (Main Number)

Format:

The Virginia Attorney General's Office has published its 2010-2011 Annual Report in a summary format that includes a letter from the Director, general information about the Medicaid Fraud Control Unit, training updates, a summary of criminal and civil cases, and other pertinent information.

To Report Medicaid Fraud:

If you would like to report a suspected case of Medicaid fraud or have questions, please contact us at 1-800-371-0824 or (804) 786-2071.

The Unit can be contacted at by mail at:

900 East Main Street
Richmond, Virginia 23219
or by email: MFCU_mail@oag.state.va.us

OAG Web Site:

www.vaag.com

Additional Information

Copies of the Virginia Attorney General's Office's Medicaid Fraud Unit's Annual Report are available without charge. This report can be viewed by visiting www.vaag.com, or requests for this item can be made by writing to:

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The Unit is housed in the Pocahontas Building across from Capitol Square.



**Medicaid Fraud Control Unit
Office of the Attorney General**

900 East Main Street, Richmond, VA 23219

To report suspected Medicaid fraud, contact MFCU at:
1-800-371-0824 or (804) 786-2071

(804) 786-3509 (fax)

MFCU_mail@oag.state.va.us
or the Department of Medical Assistance Services at:
RecipientFraud@DMAS.virginia.gov