



MEDICAID FRAUD CONTROL DIVISION

As set out in 42 C.F.R. § 1007, Medicaid Fraud Control Units (MFCUs) investigate and prosecute Medicaid provider fraud, abuse and neglect of residents in healthcare facilities and board and care facilities, and abuse and neglect of Medicaid beneficiaries in noninstitutional or other settings. The units operate in each of the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. MFCUs employ teams of investigators, attorneys, and auditors, are single, identifiable entities, and are required to be separate and distinct from the State Medicaid agency.

The U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) exercises oversight for the MFCUs, annually recertifies each MFCU, assesses each MFCU's performance and compliance with federal requirements, and administers a federal grant award of 75% to fund each MFCU's operational costs.

The Tennessee MFCU was created in 1984 after then-Governor Lamar Alexander's issuance of Executive Order 47 on March 1, 1983, placing the responsibility for the investigation and prosecution of Medicaid provider fraud and patient abuse with the Tennessee Bureau of Investigation. The responsibilities of Tennessee's MFCU are now set out in Tenn. Code Ann. § 71-5-2508. The MFCU was originally housed within the Criminal Investigation Division of TBI but grew steadily over the years to become its own division within TBI on July 1, 2019. It is now known as the Medicaid Fraud Control Division (MFCD).

For more information about TBI's Medicaid Fraud Control Division, please visit www.tn.gov/tbi/divisions/medicaid-fraud-control-division.html.

"The Medicaid Fraud Control Division pursues its ongoing mission and mandate to effectively utilize state and federal resources to successfully investigate and refer for prosecution all allegations of fraud involving healthcare providers within Tennessee's Medicaid program.

Additionally, the MFCD persists in evaluating allegations of criminal abuse, neglect, and financial exploitation occurring in Medicaid-receiving and "board and care" facilities, and in any location where abuse, neglect, or financial exploitation occurs in connection with the provision of Medicaid services."

Mike Cox, Assistant Director



In Fiscal Year 2022-2023, the MFCD'S work in fraud resulted in 22 indictments, seven convictions, and the identification of over \$40.2 million in overpayments, at a cost of approximately \$1.8 million to the state of Tennessee. The MFCD opened 17 abuse and neglect cases, obtained six indictments and four convictions, and reported individuals to the Tennessee Abuse Registry and appropriate licensing boards.



FY 2021-2022 PAST CHALLENGES

- To fill critical employee vacancies with qualified candidates
- To retain current employees to achieve tenure and endurance for years-long complex cases

FY 2022-2023 PRESENT WORK

- Maintenance of ongoing training
- Working solutions for data collection from providers

FY 2023-2024 FUTURE OBJECTIVES

- Fully staffed and tasked with the preservation of ongoing training
- Receive national recognition from HHS-OIG for “Unit of the Year”

NOTE: TBI’s Medicaid Fraud Control Division is 75% federally-funded and 25% state-funded.



While most cases worked by the MFCD involve investigations of alleged criminal acts of fraud by Medicaid providers and are prosecuted in both state and federal courts, the Division has seen and been involved in an increasing number of civil fraud cases. Those civil cases may fall under the federal False Claims Act and/or the Tennessee Medicaid False Claims Act and have resulted in the state obtaining substantial penalties and damages. The federal and state false claims acts have become powerful tools in fighting healthcare fraud and have resulted in tens of millions of dollars in recoveries for the state of Tennessee. The MFCD also works patient abuse cases involving physical, sexual, and financial abuse and neglect of individuals in both Medicaid-receiving facilities and board and care facilities, as well as allegations of abuse and neglect of Medicaid recipients in any setting (when related to the provision of Medicaid services).

RECENT SIGNIFICANT DEVELOPMENTS

2019 - Creation of a stand-alone division within the TBI with the addition of 26 new positions (agents, attorneys, and nurses) for a total of 64 approved positions to combat provider fraud and patient abuse and neglect

2020 - Expansion of MFCU authority through federal law to allow MFCUs to review complaints of abuse and neglect of Medicaid recipients residing in any setting if related to the provision of Medicaid services

2023 - Amendment of T.C.A. § 71-5-2508 to reflect the MFCD's expanded authority

In addition, numerous awards have been presented over the years to multiple Tennessee MFCD employees by the United States Department of Justice, the U.S. Attorney's Offices for the Western, Middle, and Eastern Districts of Tennessee, HHS-OIG, and the Federal Bureau of Investigation.



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TENNESSEE BUREAU OF INVESTIGATION Medicaid Fraud Control Division

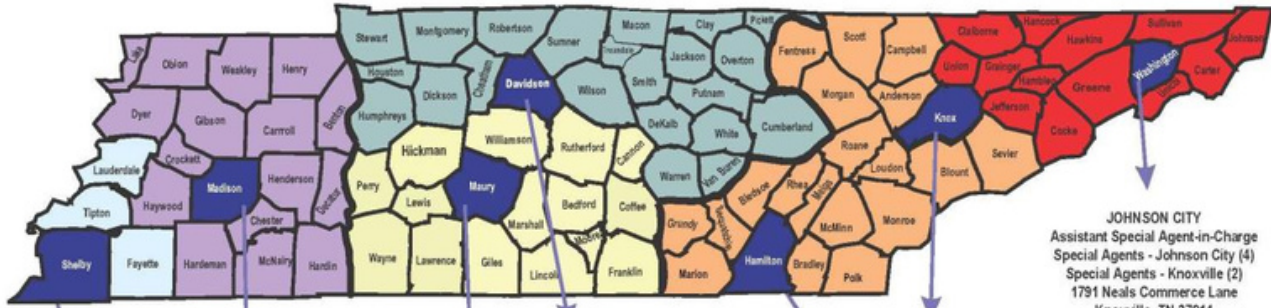


Assistant Director

Special Agent-in-Charge
West

Special Agent-in-Charge
Middle

Special Agent-in-Charge
East



JACKSON
Assistant Special Agent-in-Charge
Special Agents (6)
350 Smith Lane
Jackson, TN 38301

NASHVILLE
Assistant Special Agent-in-Charge
Special Agents - Nashville (5)
Special Agents - Cookeville (2)
901 R.S. Gass Boulevard
Nashville, TN 37216

KNOXVILLE/CHATTANOOGA
Assistant Special Agent-in-Charge
Special Agents - Knoxville (3)
Special Agents - Chattanooga (3)
1791 Neals Commerce Lane
Knoxville, TN 37914

MEMPHIS
Assistant Special Agent-in-Charge
Special Agents (6)
2399 Chiswood Street
Memphis, TN 38134

COLUMBIA
Assistant Special Agent-in-Charge
Special Agents - Columbia (6)
Special Agents - Nashville (1)
1010 Galloway Street
Columbia, TN 38401

JOHNSON CITY
Assistant Special Agent-in-Charge
Special Agents - Johnson City (4)
Special Agents - Knoxville (2)
1791 Neals Commerce Lane
Knoxville, TN 37914

SUPPORT STAFF - NASHVILLE
General Counsel
Associate Counsels (2)
Medicaid Fraud Manager
Chief Auditor
Medicaid Fraud Auditors (3)
Medicaid Fraud Data Auditors (2)
Nurse Consultants (3)
Administrative Assistants (2)

The 75% federal funding of the MFCD by HHS-OIG requires sufficient staff of professional, administrative, and support personnel to carry out its duties and responsibilities in an effective and efficient manner. There are 33 agents positioned throughout the state, who are located at TBI Headquarters in Nashville and the six TBI regional offices. The agents investigate and refer for prosecution the individuals, companies, national corporations, facilities, and other providers who may not properly provide or bill for the healthcare and long-term care needs of over 1.7 million individuals on the state Medicaid/TennCare program.

The MFCD has three attorneys who assist the Division’s supervisors and agents in understanding the immense legal landscape found in managed care and healthcare on both a state and federal level. Because of the challenging issues and types of cases the MFCD investigates, there are huge numbers of financial documents, bank records, medical records, and data that need to be examined. The auditors and nurses play a significant role in assisting in the analysis of these types of documents, tracking inventory, and utilizing special law enforcement databases to assist in obtaining information needed to further the agents’ investigations.

The administrative assistants in the Division are essential in helping the agents document their investigative files in the TBI case file system. They also play a critical role in preparing federally required submissions to maintain the MFCD federal grant funding, submitting referrals to the Abuse Registry, and performing numerous other reporting and statistical requirements.

As of June 30, 2023, the MFCD has active cases on 47 of the 82 provider groups identified on the HHS-OIG annual report. The MFCD opened a total of 86 fraud and abuse cases and closed 102 during this reporting period (July 1, 2022 – June 30, 2023). The results of these investigations led to a total of 28 individuals indicted (not total charges/counts) and 11 individuals convicted during this time frame.

The Medicaid Fraud Control Division focuses on the following areas of investigations: medical provider fraud, “whistleblower” cases, global investigations, and the abuse, neglect and financial exploitation of elder/vulnerable adults.

| Case Type | Number Of Cases | Percentage Of Case Load |
|--|-----------------|-------------------------|
| Fraud by Practitioners (e.g., Dentist, Nurse Practitioner, Physician/DO, Podiatrist, etc.) | 62 | 31.47% |
| Fraud by Individual Providers (e.g., Nurses’ Aide or Personal Care Services Assistant) | 31 | 15.74% |
| Fraud by Medical Services (e.g., Durable Medical Equipment, Home Health Agencies, Labs, or Pharmacies, etc.) | 49 | 24.87% |
| Fraud in Facilities (e.g., Assisted Living, Hospitals, Nursing Facility, Substance Abuse Treatment Center, etc.) | 23 | 11.68% |
| Patient Abuse/Neglect | 32 | 16.24% |
| Totals | 197 | 100% |

FRAUD

From July 1, 2022 through June 30, 2023, the MFCD helped identify approximately \$40.2 million in fraud cases worked by the Tennessee MFCD. In total, the Division opened 69 fraud cases, closed 75 and obtained 22 indictments and 7 convictions. Since 2018, MFCUs have received Federal financial participation for investigations and prosecutions of potentially fraudulent conduct related to the diversion or misuse of pharmaceuticals. The MFCD actively pursues cases of overprescribing and drug diversion by TennCare providers in Tennessee.

The MFCD places emphasis on the detection of healthcare fraud trends by utilizing link analysis measures and cultivating new partnerships with external fraud vendors like the Healthcare Fraud Prevention Partnership (HFPP), a Centers for Medicare and Medicaid Services (CMS)-sponsored voluntary public-private partnership that helps detect and prevent healthcare fraud through data and information sharing. Medicaid data is provided to the HFPP by CMS and is used to alert the MFCD of new fraud trends that are emerging and providers who are outliers based on the HFPP analytics. The MFCD also works closely with individuals from other areas within the Bureau of TennCare, the Tennessee Office of Inspector General, the Tennessee Attorney General's Office and the Tennessee Department of Health's Division of Health-Related Boards.

GLOBAL INVESTIGATIONS



Regarding monetary recoveries, global settlements are often the most worthwhile cases, in which the MFCD participates. These settlements typically involve large national healthcare companies and help resolve cases that originate in other states which could be based on allegations not yet the focus of investigation in Tennessee. Under state and federal false claims acts, defendant companies may have to pay restitution with the inclusion of double or triple damages, with Tennessee's share, based

on the harm done to the state Medicaid program. The National Association of Medicaid Fraud Control Units, of which the MFCD is a longstanding member, coordinates global cases through teams and frequently works with representatives from the Department of Justice and various offices of the United States Attorneys. The MFCD's Director and attorneys serve as the Division's points of contact for these cases and work closely with their counterparts from around the country. Many of the global settlements arise out of qui tams or "whistleblower" lawsuits, which are being filed with increasing regularity. A number of pending settlements are currently being worked on by the MFCD in conjunction with NAMFCU and the Tennessee Attorney General's Office.

For the 2022 – 2023 fiscal year, the MFCD was a party in nine different NAMFCU global settlements totaling over \$1 billion, with approximately \$6.1 million in federal and state dollars recovered on behalf of Tennessee's Medicaid program.

ELDER EXPLOITATION/NEGLECT

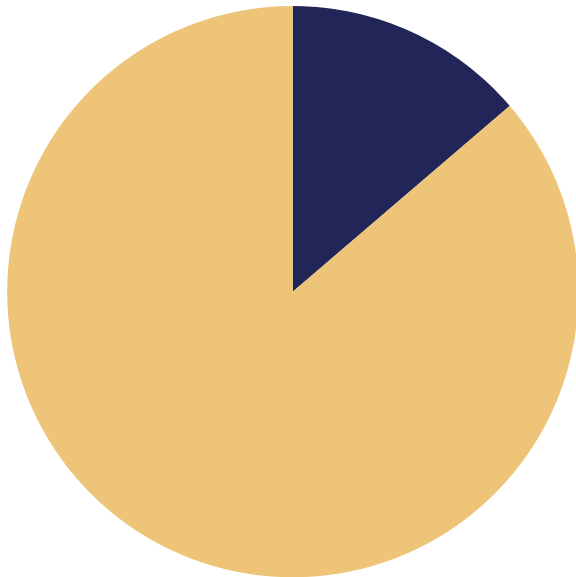
Unfortunately, elderly and vulnerable adults and other adults and children receiving TennCare benefits are sometimes neglected and/or abused – physically, sexually, and financially. Because of the quickly growing population of aging Americans, the MFCD anticipates the number of reported abuse cases to only increase in the coming years. Patient abuse cases currently comprise 16% of total MFCD cases; however, they are a prominent part of the MFCD's mission.

Until recently, the MFCD's authority to work these types of cases was limited to victims in Medicaid-receiving facilities and federally defined “board and care facilities”. However, since late 2020, MFCUs have federal authority to work cases of abuse and neglect of Medicaid/TennCare patients residing in *any* type of setting *when* the provision of Medicaid services is involved.



As of June 30, 2023, the MFCD had 32 open patient abuse and neglect cases, including financial exploitation cases, many of which have multiple victims. During the 2022-2023 fiscal year, the MFCD received over 3,700 abuse, neglect, and financial exploitation referrals, primarily from the Tennessee Department of Human Services' Adult Protective Services (APS) and the Department of Intellectual and Developmental Disabilities, but referrals also come from a number of other sources, including to the MFCD's "hotline", website, and e-mail. All referrals to the MFCD undergo a preliminary review by supervisors.

FY 2022-2023 EXPENDITURES & FUNDING



OPERATIONS

\$1,054,580

SALARIES

\$6,627,192

TOTAL: \$7,681,772



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