



**STATE OF COLORADO  
DEPARTMENT OF LAW**

**ATTORNEY GENERAL'S REPORT TO THE LEGISLATURE  
REGARDING THE COLORADO MEDICAID FALSE CLAIMS ACT  
(C.R.S. 25.5-4-310)**

The Attorney General is required by C.R.S. § 25.5-4-310 to submit an annual report to the Joint Budget Committee and to the Health and Human Services Committees of the House and Senate concerning claims under the Colorado Medicaid False Claims Act. In accordance with that requirement, the Attorney General tenders this report for the State Fiscal Year that began on the 1<sup>st</sup> of July 2020 and ended on the 30<sup>th</sup> of June 2021 (SFY 2021).

First established in 1978, the Colorado Medicaid Fraud Control Unit (COMFCU) has been housed within the Attorney General's Office since 1979. COMFCU is vested with statewide jurisdiction to investigate and prosecute waste, fraud, and financial abuse committed by Colorado Medicaid providers and to investigate and prosecute the abuse, neglect, and exploitation of patients.

While there are exceptions, fraud in the Medicaid program generally falls into one of three categories: billing for services that are not provided, overbilling for services that are provided, and billing for providing services for which there is no medical necessity. The types of practitioners that commit such fraud and the schemes that they devise differ significantly. Some examples of matters investigated and prosecuted by the COMFCU include a nurse that submitted billing through two different companies for providing care to the same patients, a physician assistant

that billed Medicaid for office visits used to dispense opioids when there was no medical necessity for the drugs, and a CNA that billed for providing hundreds of thousands of dollars of in-home services to patients when this was not occurring.

In some instances, fraudulent actions taken by Medicaid providers do not fit within the Colorado criminal statutes and absent another remedy, Colorado would not be able to recover dollars unlawfully taken from the Medicaid program. The Colorado False Claims Act, C.R.S. § 25.5-4-303.5 et seq., is a powerful tool that allows the COMFCU to pursue fraud and overpayments in the civil arena.

Using the Colorado False Claims Act, the COMFCU continued its active work in interstate federal court cases. During SFY 2021, the COMFCU opened 62 new civil cases and settled 27 civil cases which involved Colorado Medicaid providers. The Colorado Attorney General's Office filed 1 civil action under the False Claims Act during the reporting period, and as a result, at the close of the SFY had three additional civil matters in active litigation.

Colorado is currently seeking recovery under 46 new federal court cases that were served on the state by *qui tam* relators, in which the state was named as a plaintiff. In addition, Colorado participated in the settlement of 16 *qui tam* cases in federal courts in other states. These cases likely would not have been pursued in the absence of the False Claims Act. These settlements produced the appropriate result without the need for initiating civil litigation.

In SFY 2021, the COMFCU recovered \$7.13 million in actions filed under the Colorado False Claims Act. The COMFCU recovered \$6.8 million in multi-state civil matters, and \$324,851.39 in local civil matters. During SFY 2021, the COMFCU has been able to collect \$4.59 million. No litigation costs were recovered, but it should be noted that \$3.56 million of the \$7.13 million in recoveries consisted entirely of penalties that were assessed against providers. The State of Colorado did not incur

extraordinary expenses for investigation or litigation. The time spent by salaried investigators and attorneys to investigate civil cases would be difficult to determine because cases often begin as criminal investigations before being reclassified as a civil inquiry, while others may be shared between criminal and civil groups.

### Investigations SFY 2021

<b>Type of Investigation</b>	<b># of Closed Investigations</b>	<b># of New Investigations</b>
Fraud	87	90
Drug Diversion	10	3
Abuse, Neglect, Financial Exploitation	39	48
<b>TOTAL</b>	<b>136</b>	<b>141</b>

### Criminal Actions

<b>Complaints Filed</b>	<b>Criminal Convictions</b>	<b>Restitution Ordered</b>	<b>Restitution Collected</b>
22	6	\$0.00	\$15,516.98 <sup>1</sup>

### Civil Actions

<b>Complaints Filed</b>	<b>Judgments &amp; Settlements</b>	<b>Multi-State Settlements</b>	<b>Civil Recoveries</b>	<b>Recoveries Collected</b>
1	11	16	\$7,136,382.41	\$4,590,990.79

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<sup>1</sup> It should be noted that in criminal matters, the Court generally establishes repayment guidelines for the defendant after their conviction. As a result, all COMFCU collection activities over and above those guidelines held in abeyance until such time as the defendant has completed repayment or there has been a violation of the guidelines.

## Summary

During SFY 2021, the COMFCU opened 79 new criminal investigations, 62 new civil investigations, filed 22 criminal cases, filed 1 civil case, settled 27 civil cases, and obtained 6 criminal convictions of providers related to Medicaid fraud and patient abuse. Though there were COVID-19 related hurdles for SFY 21, the Unit recovered over \$7.13 million in fraudulent Medicaid billing for the State of Colorado.

Additionally, it should be noted that if Medicaid providers responsible for improper billings had not been identified, then the fraudulent activity would have continued and the losses to the Medicaid program would have been far higher than the amounts that were recovered. The Legislature's appropriation has been used effectively as measured by the monetary value returned to the State and a reduction in fraud within the Medicaid program. The COMFCU and the Attorney General's Office continue to diligently pursue providers who commit fraud and financial abuse against the State's Medicaid program.

FOR THE ATTORNEY GENERAL,



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Director, Medicaid Fraud Control Unit