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January 15, 2025

**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 2023 and ended on the 30<sup>th</sup> of June 2024 ("SFY 2024").

First established in 1978, the Colorado Medicaid Fraud Control Unit ("COMFCU" or "the Unit") 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.

The Colorado False Claims Act, C.R.S. § 25.5-4-303.5 et seq. ("CFCA"), is a powerful tool that allows the COMFCU to pursue fraud and overpayments in the civil arena. 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 committed Medicaid fraud in SFY 2024, and the schemes that they devised, were diverse. In some of these

investigations, fraudulent actions taken by Medicaid providers would not fit within Colorado criminal statutes. Absent another remedy, Colorado would not be able to recover dollars unlawfully taken from the Medicaid program.

For example, diverse Medicaid providers investigated by the COMFCU in SFY 2024 included eye vision clinics that provided and billed for aspheric lenses and extra pairs of glasses when not medically necessary; a home care provider who billed for services not provided, while working at another job during the hours billed and also collecting unemployment benefits; a company that provided day habilitation services for developmentally disabled Medicaid clients, which billed for services even though it was not even a provider of record; and a Durable Medical Equipment biller who billed for adult formula far in excess of any possible or reasonable caloric intake, resulting in overpayments of approximately \$1.5 million dollars. Other fraud trends included providers of adult day care services, drug panel tests, and non-emergency medical transportation services.

Using the Colorado False Claims Act, the COMFCU was able to continue actively working investigations that were not viable under the state criminal statutes in SFY 2024, both locally within Colorado and externally via interstate federal court cases. The Unit opened **74** new civil cases and settled **11<sup>1</sup>** civil cases that involved Medicaid providers.

In the reporting period, COMFCU recovered **\$2,205,433.40** in civil actions filed under the Colorado False Claims Act, which included **\$197,087.41** in global<sup>2</sup>, multi-state civil matters and **\$2,008,344.99** in non-global, local civil matters. The Unit has been able to collect the amount of **\$1,498,743.45** from providers in civil matters. No

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<sup>1</sup> Although the data below reflects that COMFCU obtained settlements or judgments totaling 12 civil cases in SFY 2024, one case involved a civil forfeiture judgment rather than a settlement.

<sup>2</sup> Per the National Association of Medicaid Fraud Control Units (“NAMFCU”), a “global” case is a settlement where NAMFCU has appointed a multi-state settlement or investigations team, and it has a successful judgment litigated by the NAMFCU team.

litigation costs were recovered, but it should be noted that **\$601,546.18** of the **\$2,205,433.40** in recoveries consisted of penalties and interest that were assessed against providers. These settlements produced the appropriate result without the need for initiating civil litigation. To the extent that litigation costs were incurred, the costs were not extraordinary and are balanced out by the fact that these cases likely would not have been pursued in the absence of the False Claims Act.

The COMFCU received 75 percent of its funding from the U.S. Department of Health and Human Services under a grant award totaling \$3,795,668.00 for Federal fiscal year (FFY) 2024. The remaining 25 percent, totaling \$1,265,218.00 for SFY 2024, is funded by the State of Colorado. The costs out of this budget for salaried investigators and attorneys to investigate civil cases are 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. In SFY 2025, the COMFCU has started tracking billable time for investigators and attorneys whose cases move forward into litigation.

**Investigations (Civil & Criminal) SFY 2024:**

<b>Type of Investigation</b>	<b># of Closed Investigations</b>	<b># of New Investigations</b>
Fraud	276	148
Drug Diversion	9	0
Abuse, Neglect, Financial Exploitation	38	24
<b>TOTAL</b>	<b>323</b>	<b>172<sup>3</sup></b>

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<sup>3</sup> This number reflects only opened investigations. It does not include any matters referred to the COMFCU that are still queued for an initial review and determination regarding whether an initial investigation should be opened.

**Criminal Actions:**

<b>Complaints Filed</b>	<b>Criminal Convictions</b>	<b>Restitution Ordered</b>	<b>Restitution Collected<sup>4</sup></b>
3	4	\$704,467.07	\$64,903.58

**Civil Actions:**

<b>Complaints Filed</b>	<b>Judgments &amp; Settlements</b>	<b>Global Settlements</b>
1	12	5

<b>Civil Recoveries</b>	<b>Principal State Recovery</b>	<b>Damages, Penalties, and Litigation Costs</b>	<b>Recoveries Collected<sup>5</sup></b>
\$2,205,432.40	\$1,603,887.22	\$601,546.18	\$1,498,743.45

**Summary:**

In SFY 2024, the Unit recovered a total of \$2,909,899.47<sup>6</sup> million in fraudulent Medicaid billing for the State of Colorado while operating on a state budget of \$4,651,861.33.<sup>7</sup>

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

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<sup>4</sup> It should be noted that in criminal matters, the Court generally establishes repayment guidelines for the defendant after their conviction, and typically issues payment plans based upon the defendant's ability to pay. As such, the data in this column reflects total payments received by COMFCU for criminal restitution during SFY 2024, including payments received for cases sentenced in prior state fiscal years. In addition, all COMFCU collection activities over and above court guidelines are held in abeyance until such time as the defendant has completed repayment or there has been a violation of the guidelines.

<sup>5</sup> It should be noted that in some civil matters, providers might pay the State Medicaid program directly and the COMFCU collection activities do not reflect the total amounts recorded.

<sup>6</sup> This number represents both civil recoveries and criminal restitution ordered during SFY 2024.

<sup>7</sup> See SB 23-214 (Long Bill).

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,

A handwritten signature in black ink, appearing to read "Crystal C. Littrell", is written over a solid horizontal line.

Crystal C. Littrell  
First Assistant Attorney General and  
Director of Medicaid Fraud Control Unit