

**The Vermont Medicaid Fraud & Residential Abuse Unit**

**2011 Annual Report**

**July 1, 2010 – June 30, 2011**



**Office of the Vermont Attorney General**

**VERMONT MEDICAID FRAUD AND RESIDENTIAL ABUSE UNIT  
ANNUAL REPORT**



**July 1, 2010 - June 30, 2011**

**Office of the Vermont Attorney General  
Honorable William H. Sorrell**

**To Report Medicaid Fraud:**

If you would like to report a suspected case of Medicaid fraud or patient abuse or have questions, please contact the Medicaid Fraud and Residential Abuse Unit at (802)828-5511.

*The Unit can be contacted by mail at:*

109 State Street  
Montpelier, VT 05609

**Credits**

*Photographs:*

S.W. Marks Photography

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## **PREFACE**

This Annual Report is submitted in support of the State of Vermont's Medicaid Fraud and Residential Abuse Unit's ("MFRAU") Federal Fiscal Year 2011 budget request to the U.S. Department of Health and Human Services, Office of Inspector General ("OIG"), and MFRAU's Application for Recertification under 42 C.F.R. § 1007.15(c).

Pursuant to 42 C.F.R. § 1007.15(c)(1), the State certifies that no changes in the conditions reported pursuant to 42 C.F.R. § 1007.15(a)(1) through (5) have occurred in the last twelve months. Pursuant to 42 C.F.R. § 1007.15(c)(3), the State incorporates by reference the following Annual Report Narrative.

# VERMONT MEDICAID FRAUD AND RESIDENTIAL ABUSE UNIT

## 2011 ANNUAL REPORT NARRATIVE

### I. INTRODUCTION

Vermont's Medicaid Fraud and Residential Abuse Unit ("MFRAU" or "Unit") is a law enforcement entity within the Criminal Division of the Vermont Attorney General's Office. Funded jointly by the State and federal government,<sup>1</sup> MFRAU is comprised of eight staff members—three Assistant Attorney Generals, two Analysts, two Investigators, and a Program Technician—whose dual function is to investigate and prosecute fraud by healthcare providers in the Vermont Medicaid program, and to respond to complaints of abuse, neglect, and exploitation of vulnerable adults in Medicaid-funded facilities and programs. One of fifty Medicaid Fraud Control Units nationwide, MFRAU helps to ensure the fiscal integrity of the Vermont Medicaid program, which provides essential medical care and services to 173,087 low-income Vermonters, including 64,651 children, or about twenty-eight percent of the Vermont population, at a total annual cost of approximately \$1.2 billion. Consistent with the time period of Vermont's annual budget, this narrative covers the Unit's activities from July 1, 2010 through June 30, 2011.

During the reporting period, MFRAU experienced a significant turnover in staff, with one of two Investigators, as well as both Analysts, departing for other positions within State government. Nevertheless, with the addition of a third Assistant Attorney General, and by leveraging resources elsewhere within the Attorney General's Office, the Unit was able to largely sustain, and even expand, its enforcement efforts. Notably, during the reporting period, the Unit processed 161 complaints and opened 49 new investigations, including 25 abuse cases and 24 new fraud cases. *See* Appendix A. At the end of the reporting period, the Unit had 119 pending investigations. *See* Appendix C. The Unit criminally charged nine persons during the reporting period, and achieved nine criminal convictions - four more than the previous year. *See* Appendix D, E. In

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<sup>1</sup> For every \$.25 invested by the State in MFRAU's enforcement activities, the federal government contributes \$.75. As discussed in Section IV below, the money that MFRAU recoups for the State through its case activities more than covers Vermont's share of the Unit's expenses. *See* Appendix G.

terms of actual recoupments, the Unit recovered \$2,688,635 in State and federal funds taken by fraud, mostly from multi-state or "global" cases against pharmaceutical companies for off-label marketing and kickback violations. *See* Appendix F. These cases were handled by litigation teams organized by the National Association of Medicaid Fraud Control Units ("NAMFCU"), of which MFRAU is an active member. The Unit Director is currently part of a litigation "table team" in one such global case in which Vermont, along with thirty-five other States, filed an intervening complaint alleging that a large pharmaceutical company misreported the "best price" on a prescription drug used to treat reflux disease, thereby failing to pay hundreds of millions of dollars of rebates to the Plaintiff States. This litigation is now in the summary judgment stage, with trial possible next year.

In addition to these case activities, Unit staff engaged in various outreach efforts to deter and prevent Medicaid fraud and elder abuse in Vermont, including: (1) jointly sponsoring an all-day "Healthcare Fraud 101" training with the Vermont Medicaid program's Program Integrity Unit for Vermont state employees and contractors; (2) participating in a symposium on Opiate Drug Abuse organized by the United States Attorney's Office; (3) helping to organize and participate in a three-day national conference on elder abuse sponsored by the National Association of Medicaid Fraud Control Units; (4) participating in a "Fraud Squad" presentation to Vermont seniors sponsored by the Community of Vermont Elders and the Norwich Police Department; and (5) lecturing to cadets at the Vermont Police Academy on how to detect and respond to vulnerable adult abuse and neglect. The Unit's staff also benefitted from attending various training programs conducted by NAMFCU and other organizations throughout the year.

The Unit's operations and case activities are described in more detail below. To learn more about the Unit's activities, or to submit a case referral, please contact the MFRAU Director, Ed Baker, at (802) 828-5511 or ebaker@atg.state.vt.us.

## **II. MFRAU OPERATIONS**

### **A. Organization and Personnel**

Vermont has one of the smallest Medicaid Fraud Control Unit's in the country.<sup>2</sup> Whereas the Vermont Medicaid budget has increased more than ten-fold since the Unit was founded in 1979, during that same time period the Unit's staff has grown by only two: from six to eight. Unit personnel now include three Assistant Attorneys General (one of whom is the Director), two Investigators with full law-enforcement authority, two Analysts, and one Program Technician. The third Assistant Attorney General position was filled this past year. The Director reports to the Chief of the Criminal Division. The Unit has both criminal and civil prosecutorial authority.

### **B. Equipment and Facilities**

In January 2011, the Unit relocated from the second floor of the Pavilion Building in Montpelier, Vermont, which houses the Vermont Attorney General's Office, to a newly renovated area on the third-floor of the same building that is separate and distinct from other law enforcement functions. Most staff members have their own offices. This new location allows for privacy of medical and financial records and other confidential law enforcement information and equipment, complies with regulatory requirements, and better promotes the team concept.

This past year the Unit implemented a new case management system to improve our ability to track and process cases. Although still being refined, the new system has facilitated the reporting of case data to the federal government. It is possible that the Unit may transition to a yet more sophisticated case management system in the coming year as the Attorney General's Office updates its own system.

### **C. Training Provided**

Unit personnel actively engage in outreach efforts to raise awareness of Medicaid fraud and elder abuse throughout Vermont. Notably, this past year Unit staff once again provided training on elder and vulnerable adult abuse at the Vermont Police Academy for two separate classes of cadets. In November, the Unit organized an all-day joint "Healthcare Fraud 101" training with the State Medicaid agency's Program Integrity Unit for State

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<sup>2</sup> States with smaller Medicaid Fraud Control Units include Wyoming, Alaska, New Hampshire, and South Dakota.

employees and contractors involved in the administration and implementation of the State's health care system. In October, the Unit's Senior Assistant Attorney General participated as a panelist at a symposium on Opiate Drug Abuse at the Statehouse in Montpelier. This conference, organized by the United States Attorney's Office, was attended by more than 200 health care professionals, members of law enforcement, and community activists. In addition, this past June, the Unit's Senior Assistant Attorney General helped to organize, and presented at, a multi-day training on elder abuse sponsored by NAMFCU in Wilmington, Delaware. The training was attended by more than 100 individuals from around the country.

The Unit has continued to receive requests for outreach trainings as a result of the wide distribution of our film "When Healing Hands Harm: Drug Diversion in Vermont." For example, Unit personnel were invited to speak on drug diversion at a nursing home in the Burlington area and showed portions of the Unit's film. The presentation led to a referral and conviction of one of the nursing home's employees for drug substitution. In June, the Director spoke about Medicaid fraud as part of a "Fraud Squad" presentation to senior citizens organized by the Coalition Of Vermont Elders ("COVE"). He also met with a group of mental health providers, along with the Program Integrity Unit ("PIU") director, to discuss suggested improvements to the State's provider rules and regulations. The Unit is working with PIU to develop training programs for specific provider groups going forward.

#### **D. Training Received**

Unit staff received training in a variety of forums this past year to deepen their knowledge of fraud enforcement issues and techniques, including the "Fraud 101" and "Fraud 102" programs sponsored by NAMFCU, seminars by NHCAA, CLE programs by the Attorney General's Office, and various classes offered by the State Medicaid agency and/or its contractors. The Unit maintains a complete list of the trainings attended by Unit staff, and is available upon request.

#### **E. Coordination with Other Government Agencies and Community Organizations**

MFRAU works closely with a variety of other State agencies and community organizations to investigate and prosecute fraud and patient abuse and neglect in the Medicaid program. Following is a description of some of the Unit's interactions with other agencies during the reporting period.

## **1. Department of Vermont Health Access**

This reporting period the Unit again benefited from a close working relationship with the Department of Vermont Health Access ("DVHA" or "the Agency"), the State agency that oversees the Vermont Medicaid program. In particular, Unit staff worked closely with DVHA to collect data and documents in response to subpoenas and discovery requests in several complex fraud cases that are in active litigation. The Agency also provided MFRAU staff with essential assistance with respect to a number of fraud cases that are in the early stages of investigation.

The Unit works closely with DVHA's Program Integrity Unit ("PIU") to identify appropriate fraud referrals. The Program Integrity Unit is responsible for identifying fraud, waste, and abuse within the Medicaid program, and is required to refer all credible allegations of fraud to the Unit. During the 2011 reporting period, MFRAU received three referrals from the Program Integrity Unit, one of which the Unit had already received from another source.<sup>3</sup> See Appendix B. The Unit took several steps to increase PIU's referral rate. First, MFRAU and PIU together revised the Memorandum of Understanding between the two units to clarify referral processes and procedures. Second, as discussed above, MFRAU and PIU jointly organized an all-day training on healthcare fraud for State employees involved in the administration and implementation of Vermont's Medicaid system. This event served as training for both MFRAU and PIU staff on the structure of the Medicaid program and relevant legal standards. Third, the Unit continued to meet with PIU staff on a monthly basis to discuss existing and potential cases. Fourth, this past May, MFRAU and PIU formed five separate "Provider Focus Groups," comprised of several individuals from each unit. These groups meet monthly to discuss existing and potential cases, develop provider training, and draft program recommendations related to a particular provider type. The Unit Director anticipates that these efforts will increase the number of referrals from PIU in the coming year.

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<sup>3</sup> To PIU's credit, of the Unit's eleven current "high priority" fraud cases, four originated from PIU.

## **2. Other State Agencies and Community Organizations**

Unit staff also benefit from active working relationships with many other State departments and community organizations, besides DVHA and PIU. The three agencies that Unit staff work most closely with on patient abuse cases are the Department of Aging and Independent Living (“DAIL”), the Secretary of State’s Office of Professional Regulation (“OPR”), and the Vermont Health Department. The majority of the Unit’s patient abuse referrals are generated from Adult Protective Services (“APS”) and Licensing and Protection (“L&P”), two departments within DAIL. Unit staff notify the appropriate licensing boards of all possible licensing actions. When a case is accepted for investigation by multiple agencies, the Unit coordinates joint investigations whenever possible to minimize the number of interviews and investigative resources utilized.

This past year, APS experienced a significant change in personnel, including the loss of many of their experienced investigators, their Chief of Investigations, and more recently, their General Counsel. As a result, we put the updating of our Memorandum of Understanding with APS on hold for the time being. Despite this delay, we still have regular contact with the head of Licensing and Protection and APS. Both are members of the recently formed Elder Justice Task Force and the Unit’s Senior Assistant Attorney General was recently invited to be a panel member that is tasked with reviewing APS’s performance and current structure.

In the next year, we plan to cross train with the new APS staff, and update our MOU between MFRAU, APS, Licensing and Protection, and OPR. Once a new Chief of Investigations at APS is hired, we will review significant cases and referrals by scheduling regular meetings. The Unit’s Senior Assistant Attorney General will also meet with the new Commissioner of DAIL to identify means of greater cooperation between our offices and how to best serve Vermont’s elder victims of abuse, neglect and exploitation.

## **3. Federal Agencies**

One of the Unit’s priorities is the cultivation of close and effective working relationships between State and federal agencies to combat fraud and abuse in the Medicaid programs. During this reporting period, Unit staff interacted with their federal

counterparts in a number of ways. First, the Unit worked closely with an OIG Agent assigned to Vermont on a number of investigations involving both Medicaid and Medicare fraud. Due to the closing of the OIG Regional Office in Burlington in April 2010, the Unit provided the Agent, who lives in Vermont, with office space at the Attorney General's Office. The Agent played a critical role in the investigation of a number of the Unit's time-sheet fraud cases. Second, representatives from OIG and the Vermont U.S. Attorney's Office presented at the "Healthcare Fraud 101" training sponsored by the Unit and PIU in November 2010. Third, the Unit Director worked with the Chief of the Civil Division of the United States Attorney's Office to finalize the terms of a federal False Claims Act settlement with a local hospital that improperly billed for physician services. Finally, Unit staff periodically meet with supervising attorneys and investigators from the federal agencies to discuss enforcement trends and shared cases. Several case referrals have resulted from these meetings.

#### **4. The Vermont Elder Justice Task Force**

Working in collaboration with our United States Attorney's office, Unit staff this past reporting period helped create the Vermont Elder Justice Task Force. The task force convened during the summer of 2011 and meets every other month. The working group is comprised of representatives from Vermont state and federal agencies. The mission of the task force is to create opportunities for improving quality of care for the elderly in long-term care settings and other care-giving programs by improving communications among stakeholders and law enforcement. Participants include representatives from the following groups: Office of Chief Medical Examiner; the United States Attorney; Department of Disabilities, Aging and Independent Living; Department of Licensing and Protection/Adult Protective Services; Vermont Legal Aid; Medicaid Fraud and Residential Abuse Unit; Emergency Medical Services/Vermont Department of Health; and the Office of the Inspector General.

#### **F. License Suspensions and Provider Exclusion**

Consistent with federal regulations, the Unit informs OIG of all fraud convictions, allowing OIG to formally exclude the convicted provider from the Medicaid and Medicare programs. The Unit also keeps the Vermont Office of Professional Regulation

informed of relevant enforcement actions, so that appropriate licensing sanctions, including suspension, can be imposed. Exclusions and suspensions are an important enforcement tool that prevents convicted providers from continuing to cheat the healthcare system. In this reporting period, as a result of the Unit's efforts, eight Vermont providers were suspended from the Medicare and Medicaid programs. In this same period, the Unit's Program Technician submitted eight additional requests to the Office of the Inspector General to exclude providers from the Medicaid program. To date, a total of 121 providers have been excluded by the OIG as a result of the Unit's requests.

### **III. MFRAU CASE DEVELOPMENTS AND PROSECUTIONS**

#### **A. Complaint Referrals**

The Unit received 161 referrals from a variety of sources during the reporting period. *See* Appendix B. The vast majority of these referrals (90) involved instances of elder and vulnerable adult abuse or neglect and came from other Vermont state agencies, primarily Licensing and Protection and Adult Protective Services. The next largest number of referrals (14) came from private individuals. The Unit also received a small number of referrals from State contractors (2), other State law enforcement entities (4), federal agencies (4), and providers (5). As noted above in Section II.E.1, the Unit received three (3) referrals from the State Medicaid agency's Program Integrity Unit. PIU attributes this small number of referrals to the need to train a large number of new PIU staff. Now that this training has occurred, the Unit Director is confident that, together with the efforts of the Provider Focus Groups described above, both the number and quality of referrals from PIU will increase in the next reporting period. The Unit will likewise continue to encourage referrals from a variety of sources through its training and outreach efforts.

#### **B. Fraud Investigations**

This past year the Unit opened new investigations of Medicaid fraud in numerous sectors of the Vermont health care industry, including a hospital, two psychologists, two durable medical equipment suppliers, a doctor, a nursing facility, a medical transportation company, and many personal care providers. *See* Appendix C. The Unit also worked on

many global multi-state cases involving large pharmaceutical and other large healthcare companies. At the end of the current reporting period, the Unit's fraud caseload was comprised of fifty open Vermont fraud investigations involving a variety of different Medicaid providers. *See* Appendix C. The Unit also had forty-two open "multi-state" or "global" investigations involving pharmaceutical companies, pharmacies, medical labs, and durable medical equipment suppliers. *Id.* In total, Unit staff processed forty-six fraud complaints and opened twenty-four fraud investigations. *See* Appendix A. Eight fraud cases resulted in criminal convictions. *See* Appendix D.

### **C. Fraud Prosecutions**

During the reporting period, Unit staff continued to prosecute the largest civil Medicaid fraud case in its history against a local pharmacy and its owner for fraudulently billing the Vermont Medicaid program. The pharmacy set up an elaborate scheme to "churn" dispensing fee claims for individual seven-day supplies of continuous-use drugs and charge both "service fees" and co-payments to Vermont Medicaid recipients contrary to State and federal Medicaid regulations. The State's complaint seeks restitution, civil penalties, and injunctive relief through six different causes of action including civil Medicaid fraud, consumer fraud, and numerous common law claims of action. Following an unsuccessful mediation in June, the case is in active litigation and is expected to be tried sometime within the next year. Single damages are estimated at approximately two million dollars.

Another significant fraud case which expended much of the Unit's resources this year involves a Vermont oral surgeon criminally charged with up-coding surgical extractions, performing medically unnecessary procedures, and overbilling Vermont Medicaid for anesthesia. Hundreds of patient records were examined by investigators and experts and over 50 witnesses were interviewed. As a result of this investigation, in October of 2010, the State filed twenty-three felony charges against the defendant. The case is expected to take up considerable Unit resources in the coming year as the case goes to trial in early 2012.

During this reporting period the Unit continued to implement Operation Timesheet Fraud. This initiative is a joint State and federal investigative effort to deter

the increasing incidents of personal care attendants (“PCA’s”) falsifying timesheets in order to get higher reimbursements from the Medicaid program. This past year Unit staff, along with the regional OIG investigators actively investigated numerous timesheet fraud cases that resulted in several State and federal criminal indictments. As part of this initiative, the Unit has charged and convicted nine different individuals in separate cases resulting in over \$50,000 in court-ordered restitution. The Unit is currently developing program recommendations based on insights gleaned from this initiative.

The Unit Director is part of a NAMFCU multi-state litigation team which intervened in a joint federal/state case against a pharmaceutical company. The company is alleged to have submitted inaccurate "best price" reports for sales of a widely-used prescription drug used by hospitals, thereby inflating the prices paid by the Plaintiff States' Medicaid programs as well as by the federal government. The Unit Director took and/or participated in several depositions in the case, and is assisting in the States' effort to compel the Defendant to produce non-attorney communications that it claims are privileged and also with summary judgment briefing.

The Unit Analysts responded to numerous data requests from NAMFCU global case teams throughout the reporting period. Using this data, the NAMFCU teams distributed \$2,479,359 to Vermont from the settlement of fourteen separate global cases. These cases involved egregious conduct by pharmaceutical companies, including the payment of kickbacks to doctors to prescribe drug products and off-label marketing. *See* Press Releases.

#### **D. Resident Abuse Investigations**

Unit personnel use both criminal and civil enforcement authority to combat the abuse, neglect, and exploitation that tragically occur in Vermont nursing homes, residential care facilities, home health programs, and hospitals. The Unit has historically investigated and prosecuted cases involving the death of residents due to a lack of quality care, sexual and physical abuse, misappropriation of patient trust funds, and drug diversion. This reporting period was no different.

In total, the Unit received 90 abuse complaints, of which twenty-five investigations were opened. *See* Appendix A. The Unit obtained one abuse and neglect

conviction. *See* Appendix D. Currently, there are twenty-seven cases of vulnerable adult abuse, neglect, and exploitation being actively investigated and we have one abuse case pending in criminal court. *See* Appendix C.

#### **E. Resident Abuse Prosecutions**

During the past year, several significant vulnerable adult abuse cases were successfully investigated and prosecuted by the Unit. The most significant elder abuse case that was criminally charged was a case involving the suspicious death of a nursing home resident who was also financially exploited. After a multiple agency investigation, a licensed nurse's aide was arrested in New Hampshire on a fugitive from justice charge seeking her return to Vermont to face sixteen counts of financial exploitation of a vulnerable adult and attempted financial exploitation. The charges stemmed from cash withdrawals and attempted cash withdrawals using the credit card of an eighty-nine year old resident of a nursing home in Brattleboro, Vermont. The circumstances surrounding the death remain under investigation. The exploitation case is expected to go to trial sometime in the winter of 2012.

Another significant resident abuse case involved a nurse's aide substituting a 93 year-old nursing home resident's Oxycodone with an atypical antipsychotic. The nurse's aide admitted to substituting the missing pills with a potentially dangerous antipsychotic drug, Risperdone, in place of the resident's Oxycodone. Her actions deprived the elderly resident of her painkiller and put the resident at grave risk by exposing her to a powerful antipsychotic drug that she was not prescribed. As a result of her convictions, the defendant received a total sentence of 16 to 24 months, all suspended with the defendant serving 30 days in jail.

Criminal charges were also brought in another drug diversion case that resulted in patient harm this past year. The charges stemmed from the defendant's employment as a Licensed Nursing Assistant at an assisted living facility. The aide was charged with removing Oxycodone pills from a medication bottle prescribed to an elderly resident for pain relief. The aide substituted the missing pills with Tylenol and acetaminophen, in place of the resident's Oxycodone. Her actions deprived the elderly resident of his prescribed pain

medication, causing him unnecessary pain. She was charged with several felony obtaining a regulated drug by deceit charges, and abuse of a vulnerable adult charges.

Significant staff attorney time has also been spent on a failure of care case involving the death of an 89-year-old resident of a Vermont nursing home. As part of the settlement three years ago, the nursing home agreed to be monitored at its own expense by an out-of-state independent monitor for at least one year. Last year, the agreement was extended indefinitely because of serious deficiencies cited throughout the year by the monitors. This past reporting period, the monitors have visited the facility twice and generated reports which reiterated continued concerns and repeat recommendations. Monitoring for this facility will continue throughout this next reporting period. This case has provided many lessons learned and was featured at two NAMFCU trainings this year.

This past year, we continued to review the circumstances surrounding the death of another nursing home resident who died from choking on her food, despite a care plan and a consultant report that dictated that the resident not be left alone with a food tray because of her eating disorder. In this next reporting period, it is anticipated this case will be resolved through a pre-filed civil settlement involving monitoring and policy changes at the nursing facility.

The Unit also investigated the death of a developmentally disabled adult in a board and care facility owned and operated by a county mental health agency. The young man died of an apparent Prozac overdose. The mental health agency was responsible for his medication administration and 24/7 supervision of the client. The investigation has revealed significant failure of care issues as well as potential Medicaid fraud allegations.

As mentioned earlier, the Unit is participating in an Elder Justice Task Force with the United States' Attorneys Office. This reporting period we are also jointly working on a case with the USAO, the OIG, and the main DOJ attorney utilizing CHSRA data and their analysts. The investigation is in the initial stages of gathering data and documents.

#### **IV. COSTS AND MONETARY RECOUPMENT**

The Unit had another successful year, recovering \$2,688,635 million dollars for the Medicaid Program and protecting some of Vermont's most vulnerable citizens from harm. *See* Appendix F. Most of this money was recovered through the NAMFCU global case process, with one significant recovery of just over \$200,000 deriving from a federal False Claims Act case handled by the United States Attorney's Office in Burlington, Vermont. The remaining money returned to the Vermont Medicaid program came from restitution ordered in criminal cases successfully prosecuted by Unit personnel.

MFRAU's total operating costs during the reporting period were \$688,720. *See* Appendix G. Seventy-five percent of these expenses, or \$516,540, was paid for by the federal government as part of the Unit's federal grant. The remaining twenty-five percent, or \$172,180, was more than off-set by the Unit's share of "additional recoveries" from the Unit's recoupments. In the past year, MFRAU's share of these additional recoveries totaled \$270,756. *See* Appendix F.

#### **V. UNIT PROJECTIONS**

During the next recertification period, the Unit anticipates spending a considerable amount of its resources preparing for, and conducting, trials in at least three major cases, while maintaining a number of active investigations. In addition, the Unit plans to continue working with the Program Integrity Unit through the Provider Focus Groups to increase the number of referrals in the following areas: durable medical equipment, mental health, pharmacy, prescription drug fraud, and home health care. The Unit projects that the investigative, prosecutive, and civil recovery efforts of the Unit will result in ten convictions, and \$3,550,000 in monetary recoupments. In addition, the Unit anticipates continuing its outreach efforts to the Medicaid provider, recipient, and enforcement communities related to fraud and abuse issues.

#### **VI. SUMMARY**

We are honored to be entrusted with policing critical Medicaid dollars and protecting our elderly in nursing homes, facilities and programs. In the next year, Unit staff will continue our commitment to aggressively investigate and prosecute those who

seek financial gain at the expense of the Vermont Medicaid program. Equally important, we will continue to protect and serve our most vulnerable Vermont citizens from patient abuse, neglect and exploitation.

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**VERMONT ATTORNEY GENERAL'S OFFICE  
 MEDICAID FRAUD AND RESIDENTIAL ABUSE UNIT**

**2011 ANNUAL REPORT - APPENDIX A**

**COMPLAINTS**

<b>Complaint Type *</b>	<b>Complaints Received</b>	<b>Investigated by Unit</b>	<b>Referred Out</b>	<b>Deferred</b>	<b>Declined</b>
Resident Abuse and Neglect	90	25	0	17	48
Vermont Fraud	36	14	12	0	10
Multi-State Fraud	10	10	0	0	0
Patient Funds	25	0	0	0	25
<b>TOTAL</b>	161	49	12	17	83

\*Complaints of mixed type--involving both fraud and abuse/neglect elements--are categorized as either fraud or abuse/neglect at the Unit Director's direction.

**VERMONT ATTORNEY GENERAL'S OFFICE  
MEDICAID FRAUD AND RESIDENTIAL ABUSE UNIT**

**2011 ANNUAL REPORT - APPENDIX B**

**COMPLAINTS TO MFRAU - BY REFERRAL SOURCE**

Referral Source	SFY'10	SFY'11
<b>Vermont State Agencies</b>		
Department of Vermont Health Access/Program Integrity Unit	5	3
Adult Protective Services	15	20
Choices for Care	1	3
DAIL	1	0
Department of Children & Families	1	0
Licensing and Protection	134	88
Medical Examiner	1	1
Medical Practice Board	1	1
Office of Professional Regulation	12	4
Office of the Public Guardian	1	0
Office of the State Auditor	1	0
<b>Subtotal</b>	<b>173</b>	<b>120</b>
<b>Vermont Non-Profit Organizations</b>		
CVCOA	1	0
CVHHH	1	0
Legal Aid	1	0
<b>Subtotal</b>	<b>3</b>	<b>0</b>
<b>State Contractors</b>		
ARIS	12	0
GMTA	0	2
Visiting Nurse Association	2	0
<b>Subtotal</b>	<b>14</b>	<b>2</b>
<b>State Law Enforcement</b>		
Local Police	1	3
States Attorney	4	0
VT State Police	0	1
<b>Subtotal</b>	<b>5</b>	<b>4</b>
<b>Federal Law Enforcement</b>		
Office of Inspector General	2	2
United States Attorney Office	1	2
FBI	1	0
<b>Subtotal</b>	<b>4</b>	<b>4</b>
<b>Federal Contractors</b>		
MIGs, RACs, ZPICs	0	0
<b>Vermont Providers</b>		
Health and Rehabilitation Centers	0	2

Northeast Kingdom Human Services	2	0
Northwest Counseling & Support Services	2	1
Long Term Care facilities	0	2
<b>Subtotal</b>	<b>4</b>	<b>5</b>
<b>Private Individuals</b>		
Vermont Citizens	17	14
<b>Subtotal</b>	<b>17</b>	<b>14</b>
<b>Other</b>		
MFRAU (arising from other investigations)	4	1
Other MFCUs	1	0
Press	0	1
NAMFCU (“global” cases)	14	10
Supervisory Unions	1	0
Public Officials	1	0
<b>Subtotal</b>	<b>21</b>	<b>12</b>
<b>TOTAL</b>	<b>241</b>	<b>161</b>

**COMPLAINTS TO MFRAU - BY COMPLAINT TYPE**

<b>Complaint Type</b>	<b>Number of Referrals SFY'10</b>	<b>Number of Referrals SFY'11</b>
Patient Abuse and Neglect	108	90
Vermont Fraud	77	36
Multi-state Fraud	14	10
Patient Funds	42	25
<b>TOTAL</b>	<b>241</b>	<b>161</b>

**VERMONT ATTORNEY GENERAL'S OFFICE  
MEDICAID FRAUD AND RESIDENTIAL ABUSE UNIT**

**2011 ANNUAL REPORT - APPENDIX C**

**MFRAU Investigations by Provider Type**

<b>Provider Type</b>	<b>Pending at Start of Period</b>	<b>Opened Within Period</b>	<b>Closed Within Period</b>	<b>Pending at End of Period</b>
<b>Institutions</b>				
Hospitals	1	1	0	2
Home Health Care Agencies	0	1	0	1
Nursing Facilities/LTC	6	10	2	14
Substance Abuse Treatment Facilities	1	0	0	1
Other Institutions	1	0	0	1
<b>Subtotal</b>	<b>9</b>	<b>12</b>	<b>2</b>	<b>19</b>
<b>Practitioners/Individuals</b>				
All Nurse/PA/NP	4	0	1	3
Chiropractors	0	0	0	0
Counselors/Psychologists	3	2	1	4
Dentists	2	0	0	2
Home Health Care Aides	28	5	6	27
Doctors	0	1	0	1
RN/Licensed Nurse/PA/NP	5	5	3	7
CNA	1	0	0	1
Home/PCA	1	5	3	3
Other Practitioner	4	4	3	5
<b>Subtotal</b>	<b>48</b>	<b>22</b>	<b>17</b>	<b>53</b>
<b>Medical Support</b>				
DME	1	2	1	2
Transportation	1	1	0	2
Pharmaceutical Manufacturer	36	8	8	36
Laboratories	2	0	0	2
Pharmacy	3	2	0	5
<b>Subtotal</b>	<b>43</b>	<b>13</b>	<b>9</b>	<b>47</b>
<b>TOTAL</b>	<b>100</b>	<b>47</b>	<b>28</b>	<b>119</b>

**MFRAU Investigations By Complaint Type**

<b>Complaint Type</b>	<b>Pending at Start</b>	<b>Opened</b>	<b>Closed</b>	<b>Pending at End</b>
Patient Abuse and Neglect	15	22	10	27
Vermont Fraud	45	14	9	50
Multi-state Fraud	40	11	9	42
Patient Funds	0	0	0	0
<b>TOTAL</b>	100	47	28	119

**VERMONT ATTORNEY GENERAL'S OFFICE  
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**2011 ANNUAL REPORT - APPENDIX D**

**MFRAU CASES**

<b>Case Type*</b>	<b>Carried Over</b>	<b>Opened</b>	<b>Prosecuted</b>	<b>Resolved</b>	<b>Investigated but Not Prosecuted</b>
<b>Criminal Cases</b>					
Resident Abuse and Neglect	15	22	1	1	10
Vermont Fraud	45	14	8	8	4
Multi-State Fraud	0	0	0	0	0
Patient Funds	0	0	0	0	0
<b>Subtotal</b>	60	36	9	9	14
<b>Civil Cases</b>					
Resident Abuse and Neglect	0	0	0	0	0
Vermont Fraud	0	1	1	1	0
Multi-State Fraud	40	11	1	10	0
Patient Funds	0	0	0	0	0
<b>Subtotal</b>	40	12	2	11	0
<b>TOTAL</b>	100	48	20	20	14

\*Complaints of mixed type--involving both fraud and abuse/neglect elements--are categorized as either fraud or abuse/neglect at the Unit Director's direction.

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**2011 ANNUAL REPORT - APPENDIX E**

**MFRAU CASE OUTCOMES**

<b>CASE OUTCOMES</b>	<b>SFY'10</b>	<b>SFY'11</b>
<b>Criminal Prosecutions</b>		
Plea agreement	5	9
Dismissed	0	0
Conviction at trial	0	0
Acquitted at trial	0	0
Other	1	0
<b>Civil Prosecutions</b>		
Settled prior to trial	10	10
Dismissed	0	0
Resolved on Summary Judgment	0	0
Judgment for State at trial	0	0
Judgment for Defendant at trial	0	0
Other	0	0
<b>TOTAL</b>	<b>16</b>	<b>19</b>

**VERMONT ATTORNEY GENERAL'S OFFICE  
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**2011 ANNUAL REPORT - APPENDIX F**

**RECOUPMENTS BY AGENCY**

	<b>Recovery Actions Initiated</b>	<b>Referred to Another Agency</b>	<b>Overpayments Identified</b>	<b>Overpayments Collected *</b>
MFRAU	14	12	NA	\$2,688,635.06
DVHA/PIU under agreement with Unit	NA	NA	NA	\$2,596,496.50
<b>TOTAL</b>				<b>\$5,285,131.56</b>

\* Overpayments collected include the total state *and* federal share.

**MFRAU RECOUPMENTS BY CASE TYPE**

<b>Case Type</b>	<b>Overpayments Collected SFY'10</b>	<b>Overpayments Collected SFY'11</b>	<b>Projected SFY'12</b>
Multi-State	\$3,143,603.21	\$2,479,359.06	\$3,000,000
Vermont Criminal	\$8,593.00	\$8,286.00	\$50,000
Vermont Civil	\$382,200.00	\$200,990.00	\$500,000
<b>TOTAL</b>	<b>\$3,534,396.21</b>	<b>\$2,688,635.06</b>	<b>\$3,550,000</b>

## **MFRAU RECOUPMENTS BY CASE SHARE**

<b>Case Share</b>	<b>Overpayments Collected SFY'10</b>	<b>Overpayments Collected SFY'11</b>
Federal Share	\$2,270,796.35	\$1,651,363.51
State-Only Share	\$1,255,007.40	\$1,028,985.55
<b>TOTAL</b>	<b>\$3,525,803.75</b>	<b>\$2,680,349.06</b>

## **STATE-ONLY SHARE BREAKDOWN**

<b>Case Share</b>	<b>Overpayments Collected SFY'10</b>	<b>Overpayments Collected SFY'11</b>
Restitution to DVHA	\$1,007,677.46	\$758,229.98
MFRAU's Share of "additional recoveries"	\$247,329.95	\$270,755.57
<b>TOTAL</b>	<b>\$1,255,007.41</b>	<b>\$1,028,985.55</b>

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2011 ANNUAL REPORT - APPENDIX G

MFRAU COSTS

<b>Expense Category</b>	<b>SFY'10</b>	<b>SFY'11</b>	<b>Projected FFY'12</b>
Personnel	\$572,160	\$566,500	\$711,811
Non-Personnel	\$155,329	\$122,220	\$202,071
<b>TOTAL</b>	<b>\$727,489</b>	<b>\$688,720</b>	<b>\$913,822</b>

**VERMONT ATTORNEY GENERAL'S OFFICE  
MEDICAID FRAUD AND RESIDENTIAL ABUSE UNIT**

**2011 ANNUAL REPORT - APPENDIX H**

**MFRAU PROJECTIONS - BY CASE TYPE**

<b>CASE TYPE</b>	<b>Pending at Start (7/1/11)</b>	<b>Projected New Complaints</b>	<b>Projected New Investigation</b>	<b>Projected Opened Cases</b>	<b>Projected Closed Cases</b>	<b>Projected Prosecuted</b>	<b>Projected Resolved</b>
Resident Abuse/ Neglect	27	90	25	15	50	5	5
Vermont Fraud	50	50	25	20	50	10	5
Multistate Fraud	42	10	10	10	15	1	10
Patient Funds	0	25	0	0	25	0	0
<b>TOTAL</b>	119	175	60	45	140	16	20

**MFRAU PROJECTIONS - BY PROVIDER TYPE**

<b>PROVIDER TYPE</b>	<b>Pending at Start (7/1/11)</b>	<b>Projected New Complaint</b>	<b>Projected New Investigation</b>	<b>Projected Open</b>	<b>Projected Closed</b>	<b>Projected Prosecuted</b>	<b>Projected Resolved</b>
Institutions	19	25	15	5	25	5	5
Practitioner / Individual	52	50	25	10	25	10	5
Medical Support	47	25	15	5	25	5	5
<b>TOTAL</b>	118	100	55	20	75	20	15

# **MFRAU Press Releases**

