

### §13. Human Services Fraud Investigation Unit

**1. Establishment; composition.** The Commissioner of Health and Human Services is authorized to create within the department a Human Services Fraud Investigation Unit, referred to in this section as the "unit." The commissioner is authorized to employ and assign to the unit such employees as the commissioner considers appropriate.

[RR 2021, c. 2, Pt. B, §79 (COR).]

**2. Purpose.** The purpose of the unit shall be to investigate reported acts of fraud or attempted fraud or incidents of commingling or misapplication of funds in connection with, but not limited to, the requesting, obtaining, receiving, withholding, recording, reporting, expending or handling of funds administered by the department. The unit shall investigate such reported acts or incidents involving, but not limited to, recipients, providers and vendors receiving or applying for services or funds administered by the department.

[PL 1975, c. 715, §3 (NEW).]

**3. Cooperation; information.** All agencies of the State and municipal governments shall cooperate fully with the unit, rendering any assistance requested by the unit. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the unit all information concerning any suspected incident of fraud or attempted fraud or violation of any law in connection with funds administered by the department.

[PL 1975, c. 715, §3 (NEW).]

**4. Violation of law; action.** Whenever the unit determines that a fraud, an attempted fraud or a violation of law in connection with funds administered by the department may have occurred, it shall report in writing all information concerning the fraud or violation to the Attorney General or the Attorney General's delegate for such action as the Attorney General considers appropriate, including civil action for recovery of funds and criminal prosecution by the Department of the Attorney General. The unit shall, upon request of the Attorney General and in such a manner as the Attorney General considers appropriate, assist in the recovery of funds.

[RR 2021, c. 2, Pt. B, §80 (COR).]

**5. Audit methods.** When conducting audits pursuant to this section, the department may not engage a private vendor to conduct the audit or base any auditor's compensation on a percentage of the alleged overpayment amount, except that the department may engage a private vendor to conduct audits of providers located outside this State and may base that vendor's compensation on a percentage of the amount of overpayment received by the department. The department shall disclose to the public any mathematical algorithm used in performance of an audit.

[PL 2005, c. 12, Pt. QQ, §1 (AMD).]

**6. Limitation on actions to recover overpayments.** The department may impose a sanction or withhold payment from a MaineCare provider in order to recover or impose penalties for an overpayment for services rendered or goods delivered under the MaineCare program as provided in this subsection.

A. The department may impose a sanction or withhold payment when the department has obtained an order from Superior Court allowing interim sanctions upon showing a substantial likelihood that overpayment or fraud has occurred and that substantial harm to the department will result from further delay or when the department has taken final agency action and the provider has waived or exhausted its right to judicial review. [PL 2003, c. 688, Pt. C, §6 (AMD).]

B. Notwithstanding paragraph A, the department may terminate or suspend the participation of a provider in the MaineCare program pursuant to federal regulation and state rule. This authority includes, but is not limited to, provider payment suspensions required under section 1714-E. [RR 2011, c. 2, §22 (COR).]

C. For the purposes of this subsection, "overpayment" does not include an overestimate made as part of a prospective interim payment, a 3rd-party liability recovery, a departmental administrative error or receivership fees or debt. In addition, this subsection does not apply to routine adjustments of \$2,500 or less that result from claims editing or processing. [PL 2003, c. 613, §1 (NEW).]  
[RR 2011, c. 2, §22 (COR).]

#### SECTION HISTORY

PL 1975, c. 715, §3 (NEW). PL 2001, c. 464, §1 (AMD). PL 2001, c. 464, §2 (AFF). PL 2003, c. 419, §1 (AMD). PL 2003, c. 613, §1 (AMD). PL 2003, c. 688, §C6 (AMD). PL 2003, c. 689, §B7 (REV). PL 2005, c. 12, §QQ1 (AMD). PL 2011, c. 687, §2 (AMD). RR 2011, c. 2, §22 (COR). RR 2021, c. 2, Pt. B, §§79, 80 (COR).

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