UPDATE
MEDICAID FRAUD CONTROL UNITS

Randy Clouse

Director, Virginia MFCU

President, National Association of Medicaid Fraud Control Units

NAMPI 2019 Annual Conference

Atlanta, Georgia

1

New Rule Published May 2019

- Amends regulation governing MFCUs

- Incorporates statutory, policy and practice changes that have occurred since 1978

- Some changes made affects relationship between MFCU and Medicaid agency

2

2

Revised 42 C.F.R. Section 1007.9

- MOA must be in writing and updated no less than every five years

- Medicaid agency and MFCU will agree to the following:
  - Establish regular meetings or communication
  - Establish procedures for coordinating efforts
  - Establish procedures for Unit referrals from MCOs
    - May be direct or through Medicaid agency

3

3

Credible Allegations of Fraud

- Establish procedures for credible allegations of fraud
  - Referrals from MFCU to Medicaid agency must in writing
    - Needs to include enough information to allow Medicaid agency to identify provider and explain credible allegations
  - Any request by MFCU to delay notification to provider of payment suspension must be made promptly in writing
  - Unit must accept Medicaid agency referral in a timely manner and in writing

- When Medicaid agency requests, quarterly, Unit certifies whether a referral continues to be under investigation

4

4

Credible Allegations of Fraud

- Challenges with credible allegations of fraud
  - Increase in administrative work for both MFCU and PI Units
  - Complicates investigations

5

5

Data Mining – 42 C.F.R. 1007.20

- Amended regulation includes new section allowing MFCUs to data mine

- Following conditions must be met:
  - Unit identifies methods of coordination between MFCU and Medicaid agency
  - Primary contacts must be identified
  - MFCU employees must receive specialized training in data mining techniques
  - OIG consults with CMS to approve the agreement
    - Approval is for three years
    - MFCU may request renewal in writing for additional three-year period

6

6

Data Mining

- 19 States have received approval
  - List of approved states on OIG <u>website</u>
  - Additional state applications may be pending

- Only time will tell what the results are

7

7

Managed Care

- MFCUs are required to develop protocols to ensure that MCOs refer suspected provider fraud

- MFCUs must have a commensurate number of managed care cases in its case mix

- OIG's 2018 report recommended that CMS provide assistance to states to improve coordination between MCOs, MFCUs and Program Integrity

- NAMFCU has participated at NHCAA Medicaid Fraud Working Group which is recommending Best Practices
  - More details to follow later this morning

8

8

OIG On-Site Reviews

- OIG completed its initial five-year cycle of reviews
  - All states visited with reports posted to OIG website

- OIG began its most recent cycle of reviews in 2017

- Interviews Medicaid PI Unit

9

9

- Three types of onsite reviews:

  1. **Routine**: focuses on compliance and adherence to 12 Performance Standards
     - Streamlined review
     - All Units will eventually have routine review
     - Brief public report posted to OIG website

10

10

2. **Enhanced**: looks at low outcomes or other performance related issues
   - OIG provides technical assistance
   - Public report issued

3. **Targeted**: focuses on one or two issues
   - May result in technical assistance
   - May result in public report

11

11

NAMFCU's Global Case Process

- Global cases or multi-state/federal cases generally involve both the Medicaid and Medicare programs and national defendants, such as pharmaceutical manufacturers

- Most originate as federal false claims/*qui tam* filings.

- NAMFCU encourages states to look beyond their individual state perspective when participating in global cases
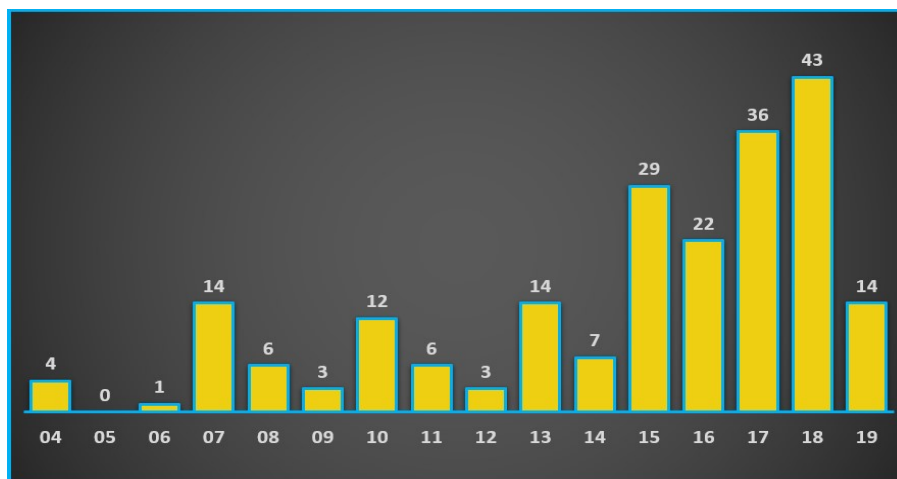
12

12

Global Cases

- Numerous states work closely with their Medicaid agency in the global case process
  - For example, NAMFCU distributes many data requests during the year
  - Completed data request are critical to furthering successful settlements

- The next slide demonstrates the number of data requests per year

13

13

Global Data Requests per Calendar Year

14

14
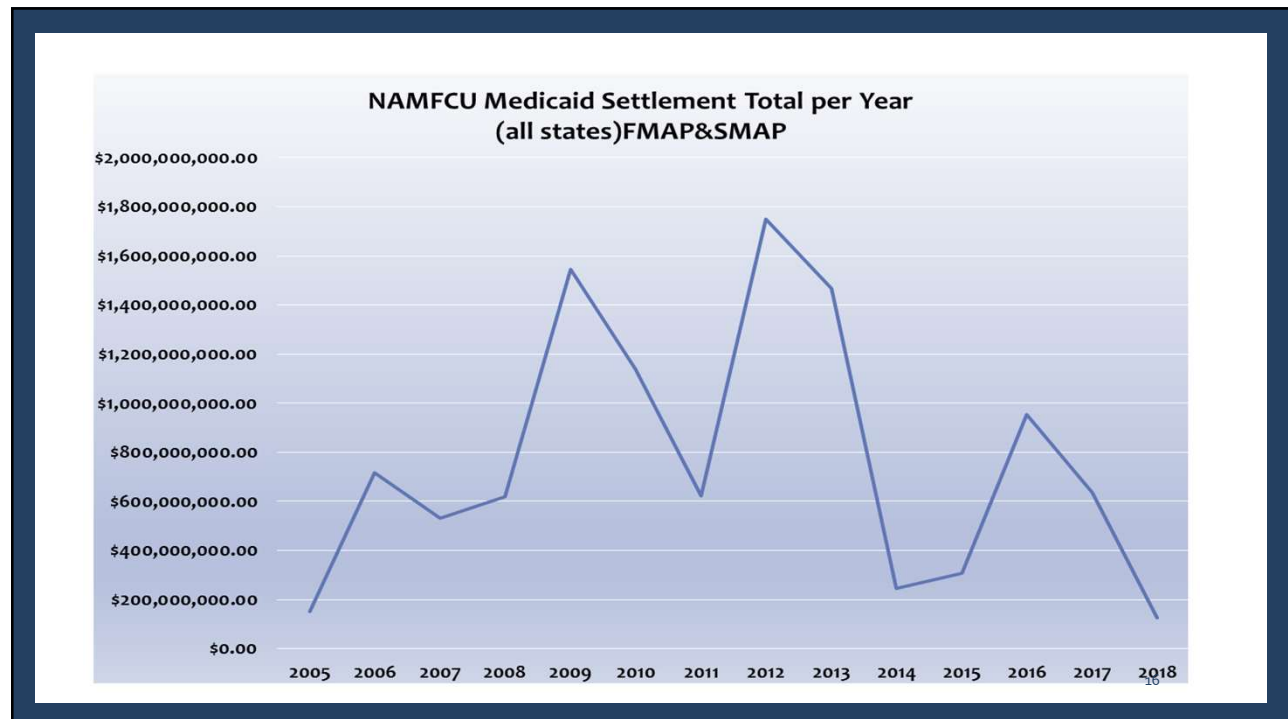
Global Case Recoveries

- There are several reasons for the downward trend in global recoveries:
  - Decrease in *qui tam* filings
  - Medicare Part D
  - Managed Care
  - Fewer off-label cases

- The next chart demonstrates this downward trend

15

15

NAMFCU Medicaid Settlement Total per Year (all states)FMAP&SMAP

16

16

Opioid Cases

- In September 2018, OIG published a Policy Transmittal clarifying the authority of the MFCUs to receive FFP for investigating and prosecuting fraud in the diversion of pharmaceuticals

- As a result of increased Medicaid coverage of non-elderly adults receiving outpatient treatment of opioid addiction, MFCUs are handling more drug treatment center cases

- In addition, MFCUs are seeing a trend in the illegal prescribing and diversion of opioids

17

17

What is NAMFCU?

- Founded in 1978 to
  - share information about Medicaid fraud nationwide;
  - provide training and technical assistance to MFCUs; and
  - provide the public with information about the MFCU program

- Headquarters located at NAAG

- Staffed by
  - Executive Director
  - Projects Manager
  - Meetings Manager
  - Membership and Meetings Coordinator

- Funded by annual dues assessed on each MFCU based on its federal grant

18

18

What is NAMFCU?

- Executive Committee manages the Association

- Members are: President, Vice-President, Director of New York MFCU, six regional representatives, and Past Presidents

19

19

Questions?

20

20