

2015 Annual Report

DHS OFFICE OF INSPECTOR GENERAL



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Message from the Inspector General

The Office of Inspector General (OIG) annual report offers an opportunity to reflect on the past calendar year to note accomplishments, compare work with prior years and look ahead to new challenges and initiatives.

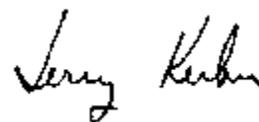
All three areas within this Office have been involved in important work in 2015 that underscore our efforts to ensure program integrity through access, accountability and transparency.

The OIG continues working to enhance the background studies system. Pilot testing of NETStudy2.0, which will use a subject's fingerprint and photo to identify whether state criminal records exist, provided valuable feedback for staff to prepare to launch the new system in 2016. NETStudy2.0 will significantly improve the accuracy of background studies and improve services for partners and new employees.

Meanwhile, the new child care provider investigations unit made some early progress in working to eliminate fraudulent billing by child care center owners. This year the unit initiated investigations into six centers resulting in a center owner pleading guilty to felony Theft by Swindle charges. Three of the centers have been criminally charged as well as two individuals associated with one of the centers; the cases await trial. These centers had received a total of over \$5 million in Child Care Assistance Program funds during 2015 until the payments were stopped. In addition to these fraud investigations, a number of recipient and provider investigations also occurred throughout the year resulting in sanctions and recouped payments.

The Licensing Division built upon its continuous improvement project to ensure maltreatment reports are completed within 60 days to the greatest extent possible. Improvements implemented in 2014 have eliminated the backlog of pending reports that exceed the 60-day timeframe. In 2015, 99.6 percent of all reports received in 2015, including those that did not result in an out-of-office investigation, were completed within the statutory 60-day deadline. The Division also made a concerted effort to reduce the number of reports pending more than 60 days. In 2015, the average length of time to complete an out-of-office investigation was 42 days.

While it's important to pause and review the work done in 2015, there is much more to accomplish as we approach the five-year anniversary of the DHS Office of Inspector General. I commend the staff for their incredible work that is reflected in this document. Together we will continue to work on fraud prevention and recovery, as well as making sure children and vulnerable adults are safe in the many programs served by DHS and other entities.



Jerry Kerber
DHS Inspector General

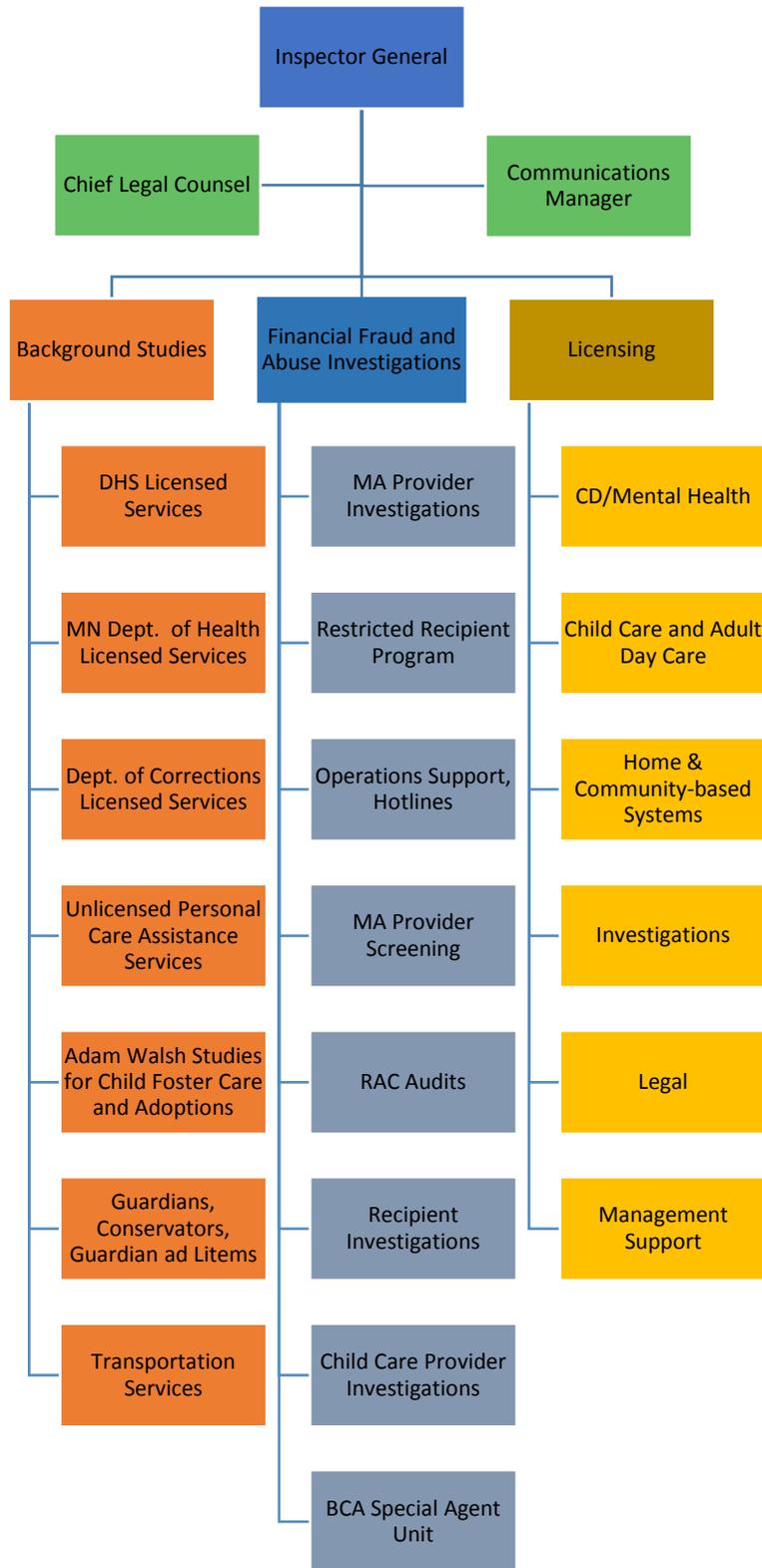
Office of Inspector General Overview

The DHS Office of Inspector General (OIG) was created in 2011 to allow DHS to increase its focus on fraud prevention and investigations, and to integrate these activities with the other important program integrity functions of licensing services and completing background studies on those who provide the services to children, people who are elderly, and people with disabilities. The OIG model is used by the U.S. Department of Health and Human Services as well as a number of other states.

Originally, the OIG consisted of the Licensing Division and the Financial Fraud and Abuse Investigations Division. In July 2013, the Background Studies area, which had been part of the Licensing Division, became a separate division.

There are 203 employees in the OIG which is located at 444 Lafayette Road in St. Paul, Minnesota.

Office of Inspector General Organizational Chart



Office of Inspector General: Background Studies Division

The Background Studies Division conducts required background studies on specific individuals. They include:

- Current and/or prospective employees/contractors who will have direct contact with vulnerable populations
- Volunteers who will have unsupervised direct contact with vulnerable populations (e.g., student interns)
- Anyone age 13 and over living in a household where a licensed program will be provided (e.g., child care and foster care).

To help protect people who receive health care and human services, individuals with certain criminal or maltreatment histories are disqualified by law from working in various settings that serve children and vulnerable adults. Background studies are governed by Minnesota Statutes, Chapter 245C.

Figure 1 shows the range of entities for which the Division conducts background studies. Not every specific entity type is represented here; this shows the general categories.

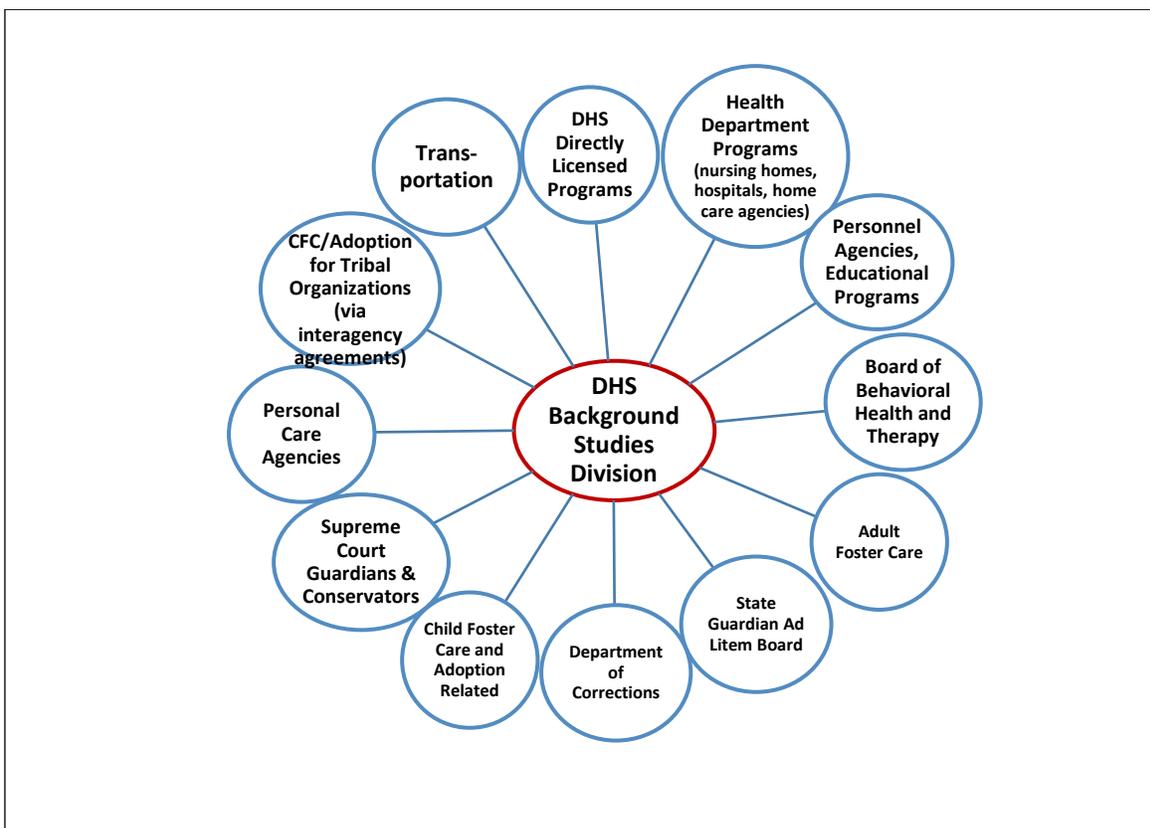


Figure 1

Individuals affiliated with these programs are required to undergo background studies. All applicants for a license issued by the Minnesota Department of Health (MDH) and the Department of Human Services, as well as the owners and managerial officials, are also

required to undergo a background study. Finally, if the DHS Commissioner has reasonable cause to believe a disqualifying criminal or maltreatment history exists, background studies may also be required of individuals who may have unsupervised access to vulnerable populations without providing direct contact services (e.g., a frequently visiting boyfriend of a child foster care provider or an individual age 10-to-12 living in a household where a licensed program will be provided).

All background studies include a review of criminal records obtained from the Minnesota Bureau of Criminal Apprehension (BCA) and records of individuals who have been found responsible for maltreatment of a child or vulnerable adult by Minnesota counties, MDH, or DHS. The background study also includes a check of the FBI’s National Criminal Repository check, either when there is reasonable cause to believe the individual has a record in another state or when the study relates to child foster care or an adoption. Child foster care and adoption studies also include a check of child abuse and neglect findings in any state in which the individual has lived in the past five years. Many background studies require staff to obtain and review records from other states.

The Human Services Background Study Act defines offenses which disqualify an individual from any position having direct contact with, or access to, persons receiving services. The law also specifies whether a disqualification is permanent or time-limited. The following chart shows the disqualification period based on offense.

Disqualification period based on offense

| Severity of Offense | Disqualification Period |
|--|-------------------------|
| Extremely serious felonies | Permanent |
| Other felonies | 15 years |
| Gross misdemeanors | 10 years |
| Misdemeanors and serious or recurring maltreatment | 7 years |

Table 1

Table 2 shows the number of background studies that were completed for the past five years and the number of disqualifications that resulted. In 2015, 85 percent of the background studies returned no criminal or maltreatment information. These individuals were approved within a matter of a day or two. Fifteen percent of the studies returned records of criminal offenses of substantiated maltreatment that required careful review. The review first determined whether the potentially disqualifying information belonged to the background study subject and second, whether the information would cause disqualification under the background study law. In about half of these cases, the records did not belong to the subject of the background study. As the chart shows, the percent of studies resulting in disqualification has fluctuated slightly over the past five years, ranging from two-to-four percent, with 2014 showing a 3 percent rate of disqualification.

Background Studies Data

| Background studies (calendar year) | 2011 | 2012 | 2013 | 2014 | 2015 |
|--|---------|---------|---------|---------|---------|
| Number of studies completed | 270,729 | 271,476 | 277,906 | 311,961 | 327,000 |
| Number of disqualifications | 10,115 | 8,112 | 6,235 | 9,276 | 12,622 |
| Percent of studies resulting in disqualification | 4% | 3% | 2% | 3% | 3.8% |

Table 2

Accomplishments

Strengthening Background Studies Procedures

The OIG proposed significant system enhancements and law changes to the 2014 Legislature that were designed to:

- Improve the accuracy of DHS background studies
- Increase protections for vulnerable adults and children who receive services from those who are required to have a background study, and
- Significantly speed the background study process for most background study subjects.

Prior to and during the legislative session, OIG staff attended over 100 meetings and met with over 2,000 stakeholders, including legislators, providers, labor unions, professional licensing boards, and other state agencies to provide a thorough overview of the proposed enhancements, answer questions and gather feedback and advice. The proposal ultimately passed the House and Senate unanimously.

Following the legislative session, a redesign of the current background study system began that called for a number of new enhancements, many of which were implemented in pilot testing with a limited number of providers in 2015. These providers are now fully transitioned fully to NETStudy 2.0, a new web-based system for providers to submit background study requests and receive determinations.

The biggest change in the new system is the transition from obtaining criminal records from the Bureau of Criminal Apprehension (BCA) based on a comparison of the subject's name and date of birth to use of a subject's fingerprints to identify whether state criminal records exist. Using fingerprints to conduct state BCA record checks will virtually eliminate all "false hits" that require the review of criminal records of people with names that are similar to the actual background study subjects.

Other enhancements include using photographs to confirm the identity of background study subjects so employers can verify that the person who submitted fingerprints for the study is the

same person they intend to hire. Real-time updates of criminal case information will be obtained from the Minnesota Court Information System. Additionally, the new system will perform automated checks to determine if the subject has been “excluded” from serving in any setting reimbursed with Medicaid funds, relieving employers of this monthly duty specified under federal law.

In addition, repeat checks by DHS for criminal and maltreatment history won’t be necessary when individuals change jobs or take a second job because the new system will receive ongoing updates regarding the subjects’ state criminal and maltreatment information, and regular updates regarding state and federal exclusions. The new system also creates administrative efficiencies for providers, reduces hiring time, and provides a more robust and comprehensive study. Vulnerable adults and children who receive services will be better protected as a result of more thorough studies that are subject to ongoing updates.

Pilot testing with a number of nursing homes began in July 2014 to analyze various aspects of NETStudy 2.0. Additional programs were added to the pilot beginning in late 2014. In 2015, providers representing nearly every license type and unlicensed personal care provider organizations had participated in the pilot session and fully transitioned to NETStudy 2.0. Pilot participants provided valuable feedback to staff leading to adjustments in the design of the system. The statewide infrastructure for fingerprinting and photos became fully operational in 2015 with [locations throughout the state](#). The cost of fingerprinting and photographs is \$9.10 anywhere in the state; under the new system, this activity should only be needed once in a person’s career except in limited instances.

Looking Forward

The Division plans to transition most providers to the new NETStudy 2.0 and continue to refine the system in 2016.

- Approximately 13,000 providers and 30,000 users will transition to NETStudy 2.0. Providers will be contacted in advance of the transition to provide time for training and to make decisions about who they want to have as their primary account contact, called a background study sensitive information person.
- A schedule was developed for the transition beginning with transportation providers who received information about the transition in December 2015. The schedule is posted on the DHS web site.
- Electronic tools were developed to assist providers in sending the necessary information to transition to NETStudy 2.0.
- Training and support will be available and many of the resources are available on the DHS website.
- Group Residential Housing providers will be required to submit background study requests to DHS beginning July 1, 2016. These providers will be set up with accounts in NETStudy 2.0.
- Refinements continue with the NETStudy 2.0 software developer and additional functions will be incorporated into NETStudy 2.0. Staff will continue to work with 3M Cogent, the vendor that operates the statewide fingerprinting and photo service locations,

and the State's IT agency to improve the system based on feedback from stakeholders, system users, and others.

National Criminal Record Checks

A \$3 million grant from the federal Centers for Medicare & Medicaid Services (CMS) funded many of the enhancements to the background study system and helped satisfy many of the federal grant requirements. DHS hopes to pursue through the legislative process the authority to expand every background study to include a national criminal record check through the FBI.

This is important because serious crimes committed in other states can be missed without an FBI record check. The FBI is also developing a system that will automatically inform DHS when a background study subject who had a fingerprint-based FBI record check commits a subsequent crime in any state. This is especially important for background study subjects who work in Minnesota but reside in bordering states.

Child Care Background Studies

The federal Child Care and Development Block Grant Act of 2014, enacted on November 19, 2014, directs several significant changes for all licensed child care programs, legal nonlicensed providers, and license exempt centers, including changes to the way background studies are completed.

All background studies for child care settings will need to be fingerprint-based and include national criminal record review using a query of the National Criminal Repository. With system improvements underway and the department's pursuit of legislative approval for national criminal record checks, Minnesota is in a good place from a compliance perspective. However, the transition to a federally compliant system for background studies completed on family child care providers and legally nonlicensed child care providers will require more extensive changes and legislative approval. These background studies are currently name-based Minnesota studies performed by counties. The OIG began extensive outreach with counties in fall 2015 to explore seeking legislative directive to move the current county background study duties to the state to take advantage of NETStudy 2.0.

Office of Inspector General: Financial Fraud and Abuse Investigations

The DHS Office of Inspector General is responsible for investigating fraudulent activities within DHS-administered public programs. The Financial Fraud and Abuse Investigations Division investigates billing violations by providers that are reimbursed with Medical Assistance and the Child Care Assistance Program, as well as suspected or questionable eligibility of public benefit recipients.

(SIRS) MA Provider Investigations

As the state Medicaid agency, DHS is federally mandated to implement a statewide Surveillance and Integrity Review Section (SIRS)¹ that investigates the billing and delivery of health services by providers and the use of health services by recipients. Established over 50 years ago, SIRS oversees provider billing for the \$11 billion Medicaid industry in Minnesota. The Section's purpose is to:

- Identify and investigate suspected fraud and abuse
- Identify and recover overpayments
- Withhold payments where there is a credible allegation of fraud
- Suspend or terminate providers in MHCP
- Prevent financial fraud and waste in MHCP
- Protect recipients
- Recommend system edits preventing improper payment of submitted claims

SIRS consists of three units: Provider Investigations, the Minnesota Restricted Recipient Program, and the Federal Audit and Provider Screening Unit.

The Provider Investigations Unit is responsible for investigating health care provider claims paid by the MHCP.² Each year SIRS conducts hundreds of investigations resulting in:

- The education of providers and identification of overpayments
- Prosecution of criminal providers
- Suspensions and terminations of providers from MHCP

Investigators conduct investigations of MHCP providers, educate providers and recipients, and identify gaps in payment or health care policy that have resulted in improper billings or service use. SIRS investigators are experienced in a variety of disciplines, including: pharmacy, nursing, mental health, physician services, respiratory therapy, durable medical equipment, hospice, law enforcement and accounting.

¹ 42 CFR 456.3

² Also federally mandated in 42 CFR 456.23

SIRS Completed Investigations by Provider Type

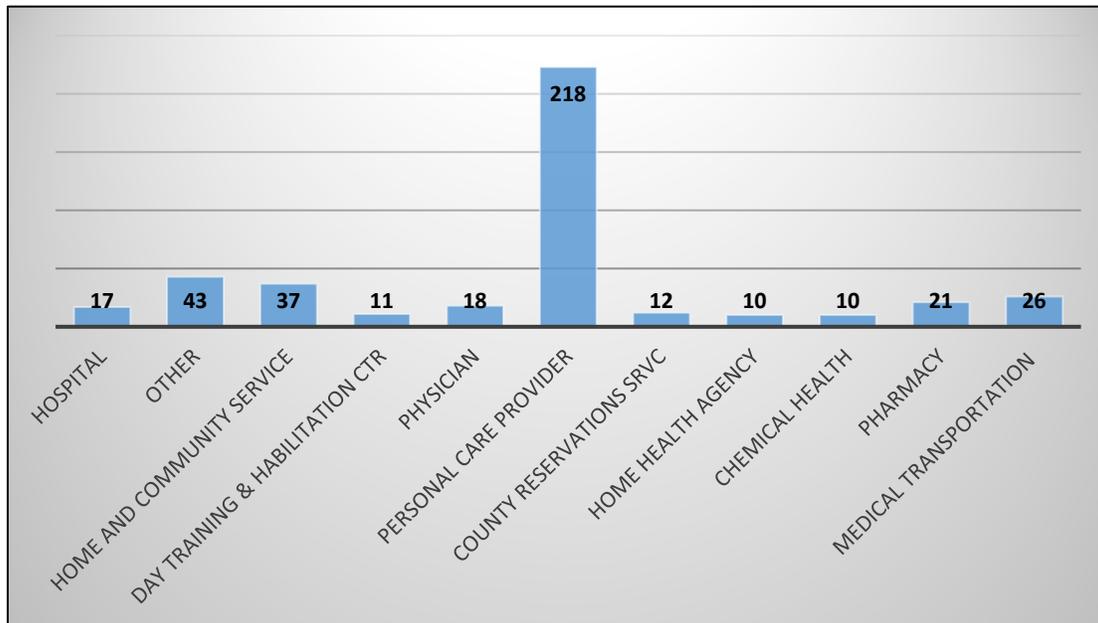


Figure 2³

| 2015 Provider Investigations | |
|--|--------------|
| Number of provider cases opened | 590* |
| Number of provider cases completed | 423* |
| Number of cases referred to MFCU ⁴ | 135 |
| Number of provider payment withholds | 121 |
| Number of provider suspensions or terminations | 174 |
| Number of National cases | 9 |
| Amount of overpayment identified | \$2,409,516* |

Table 3

*Excludes RAC cases

Managed Care Organizations' Investigations

When DHS pays for health care services through contracted managed care organizations (MCOs), **Provider Investigations** staff oversee the MCOs' investigations and integrity activities. Approximately 73% of MHCP recipients are enrolled with the eight MCOs. The remaining 27% are enrolled in the fee-for-service (FFS) program operated by DHS. For MCO cases, SIRS refers allegations of improper payment or fraud by managed care providers to all eight⁵ contracted MCOs and provides technical assistance to the organizations in identifying, investigating, and

³ Does not include Recovery Audit Contractor (RAC)

⁴ Minnesota Fraud Control Unit within the Minnesota Attorney General's Office

⁵ Hennepin Health and Metropolitan Health Plan are separately enrolled providers with DHS. However, Hennepin Health is doing business as Metropolitan Health Plan, the HMO license holder. For this reason they are counted as one managed care organization for purposes of this report.

combating fraud and abuse. Occasionally SIRS will conduct a joint investigation of a fee for service and MCO provider with MCO investigators if the suspected fraud or abuse appears to impact both payment systems.

| 2015 Managed Care Investigations | |
|---|-------------|
| Number of Provider Cases Opened | 574 |
| Number of Provider Cases Completed | 397 |
| Number of Cases referred to MFCU/Law Enforcement | 48 |
| Number of Provider Adverse Actions | 127 |
| Amount of Identified Overpayments (Including Denied Claims) | \$1,765,278 |
| Amount of Recovered Overpayments (Including Denied Claims) | \$1,673,295 |

Table 4

| 2015 SIRS Ma Provider Recoveries (Federal & State Share) | | | | | |
|---|--------------------|---------------------|---------------------|--------------------|--------------------|
| Calendar Year | 2011 | 2012 | 2013 | 2014 | 2015 |
| OIG Staff Investigations | \$878,351 | \$1,907,822 | \$1,792,085 | \$3,863,900 | \$1,969,243 |
| Recovery Audit Contract (started in 2013) | | | \$136,171 | \$3,334,136 | \$4,032,344 |
| National Cases | \$7,006,328 | \$25,207,970 | \$16,469,446 | \$1,619,918 | \$2,383,063 |
| Claim Corrections | | | | | \$560,602 |
| TOTAL | \$7,884,679 | \$27,115,792 | \$18,397,702 | \$8,817,954 | \$7,258,373 |

Table 5

National Cases

SIRS investigators and data analysts provide information and technical support to the National Association of Medicaid Fraud Control Units in filing civil actions against multi-state providers where Minnesota Medicaid funds have been paid to the multi-state provider. SIRS participation in such civil cases provides recoveries for Minnesota's Medicaid program.

The Federal Audit and Provider Screening Unit ensures that federal mandates are implemented that deal with Medicaid claims auditing and verifying provider compliance with enrollment standards through onsite visits to providers who are at risk of committing fraud.

Post-Payment Audit Contracts

Minnesota has expanded the reach of its post-payment audits through audit programs with outside entities as the result of recent federal mandates.

- 1) SIRS manages a federally-mandated contract with a Recovery Audit Contractor (RAC). Minnesota’s Medicaid RAC is Health Management Systems, Inc. (HMS). SIRS directs the scope and determines the provider groups audited. This contractor audits Medicaid provider billings and medical records to identify overpayments and underpayments. In 2015, HMS continued to conduct hospital credit balance audits and inpatient hospital admissions audits that were instituted in 2013. HMS expanded its activity in 2015 to include audits of nursing home, outpatient hospital and inpatient hospital observation payments.
- 2) SIRS coordinates and provides advice on audits conducted by a second contractor, Health Integrity, Inc. Health Integrity contracts with the federal CMS to conduct post-payment audits of Medicaid provider billings. In 2015, Health Integrity completed audits of five large health care providers and recovered \$7,500 from two of them. The remaining three cases are still moving through the appeal process.

| 2015 RAC Investigations | |
|-----------------------------------|-------------|
| Number of provider investigations | 335 |
| Amount of recoveries | \$4,031,344 |

Table 6

Provider Screening

Under federal and state law, DHS requires all enrolled providers to be screened based on the level of risk of fraud, waste, or abuse to the Medicaid program. The screening of providers in the “moderate” and “high-risk” categories requires conducting unscheduled, unannounced site visits at the provider’s practice location. The screening investigators conduct pre- and post-enrollment site visits to verify that the enrollment information submitted to DHS is accurate and complies with federal and state law, and that there is evidence that a business entity actually exists (i.e., qualified staff, enrollment requirements, equipment, files, etc.). These visits also identify potential program integrity concerns that sometimes result in a referral to the SIRS Provider Investigations Unit. The screening visits began in December 2014, and at a minimum, will be repeated every five years for existing enrolled providers.

| 2015 Screening Site Visits | |
|---|-----|
| Site Visits Performed | 869 |
| Providers who Failed the Site Visit | 31 |
| Site Visit Referrals to Provider Investigations | 89 |

Table 7

Screening Site Visits by Provider Type

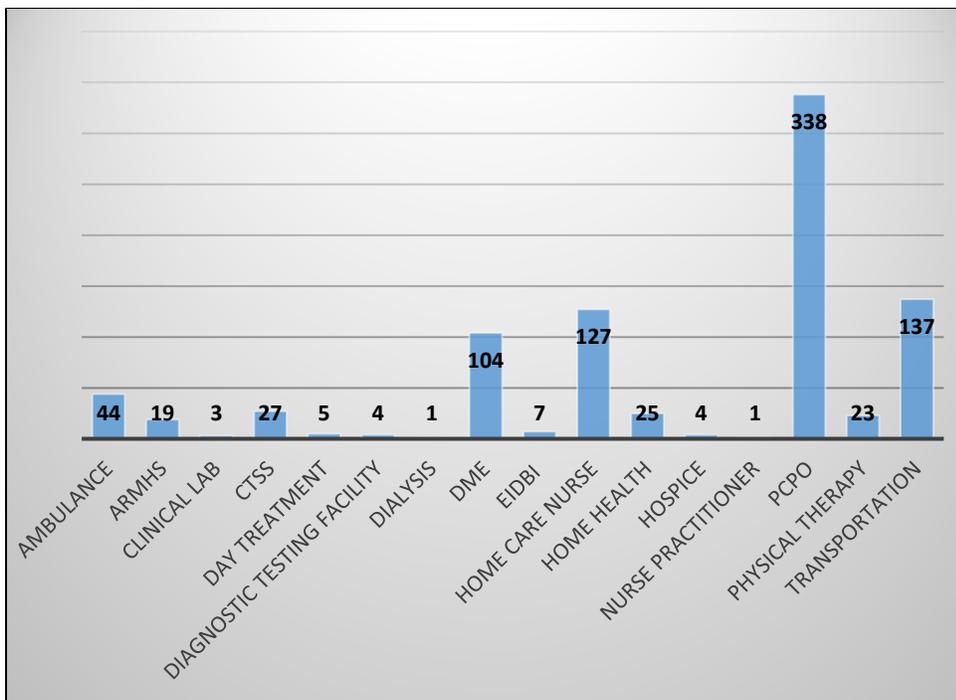


Figure 3

Minnesota Restricted Recipient Program (MRRP)

MRRP conducts post-payment reviews of Minnesota Health Care Program recipient medical billing claims to determine whether recipients are receiving services that are not medically necessary and are abusing or misusing services that result in unnecessary costs to the Program. When recipients are placed in the program, they are restricted for either 24 or 36 months to one primary care provider, the primary care provider’s clinic, its affiliated hospital and one pharmacy. A recipient’s restriction may continue beyond this period if a review of services shows continued program violations or misuse of services. Many restricted recipients need medical care from specialists; this can only be obtained through a referral from the primary care provider. The restriction of a recipient, referred to as a “universal restriction,” stays in place

regardless of whether the individual is served under fee-for-service (FFS) or by a managed care organization (MCO).

In 2010, there were 1,431 recipients the program. In 2014, there were 3,599 recipients, in 2015, there were an estimated 4,500 recipients in the Restricted Recipient Program within the FFS and MCO delivery systems. MRRP ensures that Minnesota restriction requirements are followed by MCOs.

After a recipient is placed in the restricted recipient program, there is a significant reduction in expenditures for services and total visits. For emergency room visits and length of inpatient stays, the reduction in visits is over 50% and for prescription fills the reduction is over 40%. This leads to a savings in health care expenditures per year from \$4,000 - \$5,000 over the restricted period as well as better coordination of care and services for recipients.

Public Recipient Investigations

The OIG coordinates and administers the Fraud Prevention Investigation (FPI) program. This program prevents ineligible applicants from receiving benefits, and also attempts to quickly identify and take action against recipients who are receiving benefits inappropriately. If investigators determine that a recipient unlawfully received benefits, they will work with county eligibility workers to determine the overpayment and take steps to recover funds. Minnesota’s FPI program provides funding for 12 single county and 14 regional county contracts covering 74 counties. In the remaining 13 counties, investigations are handled by the local law enforcement agency.

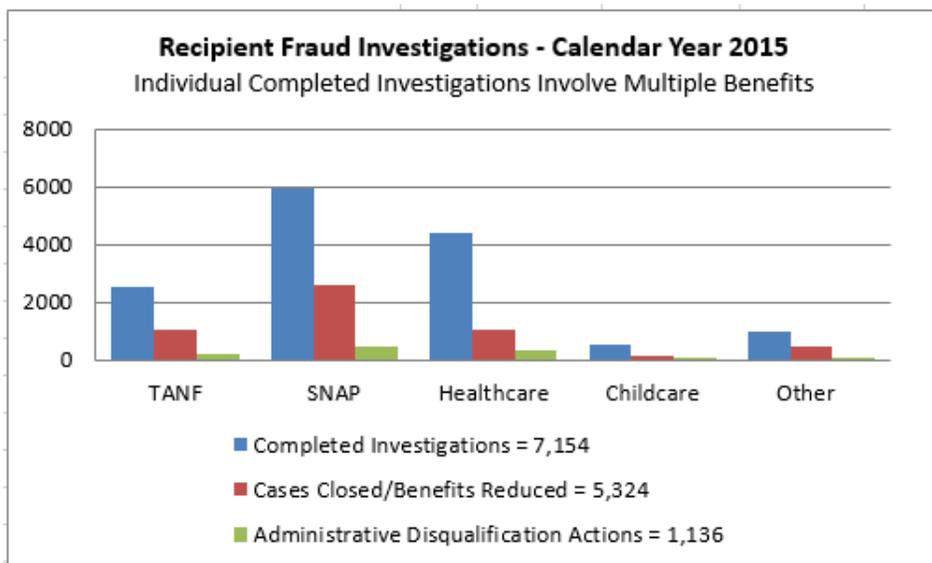


Figure 4

| Investigative Benefit Reviews | | | | | | |
|--|-------|-------|------------|-----------|---------|--------|
| | TANF | SNAP | Healthcare | Childcare | Other** | Total |
| Completed Benefit Reviews by Program* | 2,562 | 5,976 | 4,429 | 555 | 985 | 14,507 |
| Actions taken on individual recipient benefits | | | | | | |
| Benefits Closed or Reduced | 1,075 | 2,618 | 1,025 | 136 | 465 | 5,319 |
| Administrative Disqualifications | 203 | 468 | 334 | 38 | 15 | 1,058 |
| | | | | | | |
| | | | | | | |

Table 8

**The majority of investigations involve two or more benefits to review. The investigations may also include more than one household member.*

*** Other includes any other DHS or county recipient benefit such as GRH, EGA, MSA, etc.*

| Recipient Investigation Overpayments Identified | | | | |
|---|-------------|-------------|-------------|-------------|
| | CY 2012 | CY 2013 | CY 2014 | CY 2015 |
| TANF | \$724,669 | \$666,990 | \$1,040,471 | \$1,183,860 |
| SNAP | \$1,402,906 | \$1,572,194 | \$1,892,741 | \$2,062,058 |
| Healthcare | \$1,937,407 | \$2,177,461 | \$1,939,514 | \$1,401,846 |
| Childcare | \$193,930 | \$338,473 | \$281,409 | \$608,208 |
| Other * | \$125,122 | \$135,051 | \$189,715 | \$205,305 |
| Total | \$4,384,034 | \$4,890,169 | \$5,343,850 | \$5,461,277 |

Table 9

MinnesotaCare Investigations

Another type of recipient investigation is conducted by OIG staff and involves the MinnesotaCare Program. In these cases, if a fraud determination is made, they are referred to MinnesotaCare Eligibility Operations to determine the amount of loss and funds that can be recovered.

The team for MinnesotaCare eligibility investigations currently consists of two full-time investigators. Due to systems changes and problems associated with implementing METs, investigators have seen a significant reduction in referrals from county eligibility workers.

Due to the reduction in referrals, OIG MinnesotaCare investigators and data analysts have identified data mining protocols that are useful in identifying possible fraud involving MinnesotaCare recipient cases. This protocol involves using MinnesotaCare cases that fit a specific criteria and are then screened for potential eligibility issues.

During 2015, investigators reviewed 3,102 cases. After an initial review, 2,494 cases (78%) were found to contain no eligibility issues. 608 cases required additional investigation to resolve eligibility questions. Ultimately it was determined that in 239 cases (7.4%), improper payments were made on behalf of ineligible recipients. In these cases, the information was forwarded to DHS Health Care Operations staff to calculate overpayments or take eligibility case actions. Premium savings are identified in cases where an active recipient on MinnesotaCare is found to be ineligible and are calculated as the number of months of remaining eligibility remaining (prior to the new eligibility determination) multiplied by the monthly premium amount.

| 2015 MinnesotaCare Recipient Investigations | |
|--|-----------|
| Total cases reviewed | 3,102 |
| Completed investigations | 608 |
| Cases resulting in premium savings or overpayments | 239 |
| Premium savings | \$77,594 |
| Overpayments assessed | \$521,290 |

Table 10

Child Care Provider Investigations

The goal of this unit is to eliminate fraudulent billing to the Child Care Assistance Program (CCAP) by unscrupulous child care center owners or employees. By significantly reducing fraudulent billing within CCAP, many more Minnesota children and parents would be able to participate in this program. The current waiting list has over 6,000 families.

- During 2015, the Child Care Provider Investigations Unit initiated investigations into six child care centers. These investigations were opened after this unit received information from a variety of sources, including parents, community members, center employees, DHS Licensing, various law enforcement agencies, and other government agencies, alleging fraudulent billing or other illegal activity taking place in these centers. The investigations into these centers revealed that they were engaged in large scale billing fraud against the Child Care Assistance Program as well as other illegal activity. This unit provided information in its collaborative work with the Minnesota Bureau of Criminal Apprehension (BCA) and, in some cases, federal law enforcement agencies.

- The owner of one center was charged with, and later plead guilty to, felony Theft by Swindle. Three of the child care centers have been criminally charged, as have two individuals associated with one of those centers. Those cases are awaiting trial. The three centers awaiting trial had received a total of over \$5 million in CCAP funding during 2015 until the payments were stopped. Investigators also obtained court orders freezing approximately \$500,000 of the companies' and owners' assets in these cases. The assets are being held in escrow pending case outcomes. The other three remain under investigation/are awaiting a charging decision by state and federal prosecutors.

| 2015 Child Care Investigations | |
|--|--|
| Number of CCAP investigations initiated by DHS OIG | 6 |
| Number of cases referred for criminal investigation | 6 |
| Number of persons/companies criminally charged | 6 |
| Approximate value of fraudulent payments seized pending court disposition | \$500,000 |
| Total CCAP billed by these providers in 2015 | Over \$5M for the three owners awaiting trial |

Table 11

2015 Accomplishments

- In the past two years, the OIG completed over 400 personal care assistant (PCA) fraud, abuse or overpayment investigations that identified over \$1.6 million in overpayments. In 53% of the cases investigated, the outcome was a termination, suspension, conviction, or stipulated agreement. Some stipulated agreements allow the continuation of services while DHS recovers the overpayment through reduced reimbursement for subsequent services until the repayment has been made.
- SIRS continues to collect surety bonds for failed businesses. In 2015, SIRS collected over \$220,000 in bonds relating to five investigations of MHCP providers.
- OIG proposed legislation that passed in 2015 requiring PCA provider agencies to develop and implement policies and procedures to conduct verification calls. The intent is to identify PCA caregivers who are not showing up to provide services to recipients.
- The OIG increased oversight efforts in transportation by:

- Requiring all transportation providers who transport recipients to a methadone clinic to rotate drivers where feasible. This is intended to prevent collusion or coercion between recipients and particular drivers.
 - Implementing new billing requirements for methadone clinics that now show the place of service where the drug is dispensed. This allows DHS to distinguish whether methadone is dispensed onsite or whether the recipient received take-home doses. DHS can review transportation billing claims against take-home dosages of methadone to identify improper payments or possible fraudulent billing for rides not provided.
 - Classifying transportation providers as high-risk providers, and triggering onsite screening and background studies for owners and managers.
 - Improving transportation providers' required documentation through new legislative requirements. Failure to accurately and completely document a transportation service can result in an action by DHS SIRS.
- The Minnesota Restricted Recipient Program recovered \$415,000 in sanctions against managed care organizations for failing to accurately enter recipient restrictions into Minnesota's payment system, MMIS. When restrictions are not entered properly, recipients continue to receive services from non-designated providers that are not medically necessary; this results in unnecessary costs to the Medicaid program.
 - Screening site visits resulted in identifying more than 30 providers whose enrollment process would not be continued. SIRS opened 24 provider investigations in 2015 from referrals from the SIRS Screening Unit; five of the investigations were completed resulting in four terminations and one monetary recovery.
 - During 2015, the Child Care Provider Investigations Unit assisted in the completion of criminal investigations into six child care centers in collaboration with the Bureau of Criminal Apprehension. Criminal investigations into these centers were conducted by the BCA, or by the BCA in conjunction with various federal law enforcement agencies, due to the large scale billing fraud that was found involving the Child Care Assistance Program (CCAP). The owner of one of these centers was charged and plead guilty to felony Theft by Swindle. Three other child care centers have been criminally charged; their cases are awaiting final disposition. These three centers had received a total of over \$5 million in CCAP funding during 2015 until the funding was discontinued. These investigations also resulted in approximately \$500,000 in company and owner assets being seized and held in escrow at the direction of the Courts pending the outcome of these cases.

| 2015 Provider & Recipient Overpayments Identified and Recoveries* | | |
|---|-------------------------|---------------------|
| | Identified Overpayments | Recoveries |
| Managed Care Organizations | \$1,765,278 | \$1,673,295 |
| MA Provider Investigations | \$2,409,516 | \$7,258,373 |
| RAC Investigations | \$4,031,344 | \$4,031,344 |
| Recipient Fraud Investigations | \$5,461,277 | |
| MinnesotaCare Investigations | \$521,290 | |
| Total | \$14,188,705 | \$12,963,012 |

Table 12

* Identified overpayments relate to the 2015 **completed** investigations. Recoveries are the funds recovered in 2015 from some of the investigations completed in 2015 and other investigations from previous years.

Looking Forward

- Expand oversight of MCO program integrity: The OIG will pursue expanding oversight of Minnesota’s eight managed care organizations program integrity units. This will include: training and education, a review of MCO program integrity policies and procedures, additional reporting obligations of MCO investigations and data mining activity.
- Expand documentation requirements: The OIG plans to seek legislation in 2017 to establish minimum documentation requirements in waiver services pursuant to federal law. Beyond the minimal documentation requirements for all waived services, the OIG will propose specific additional documentation requirements for adult day care, transportation, and equipment or supplies. If enacted, SIRS will be able to verify that services were appropriately documented and seek recovery from agencies when billed services failed to meet requirements.
- Review risk categories: With the increased investigations of behavioral health and chemical dependency providers, and enhanced enforcement tools over waived services providers, SIRS will assess these provider to determine whether they should be classified as moderate- or high-risk providers under federal and state law.
- Increase investigations of behavioral health and chemical dependency providers: Efforts will continue in 2016 to increase the number of investigations of behavioral health and chemical dependency providers.
- Death project: Provider billing claims will be investigated for recipients who have died; any improper payments will be recovered. The Department will correct the recipient records by entering a date of death and a closed eligibility span to prevent future fraud using the recipient IDs.

- MinnesotaCare Investigation Referrals: The OIG will continue to review and investigate cases regarding eligibility issues and refer those with issues to MinnesotaCare Operations for overpayment calculations and eligibility case actions. The OIG administration will work with DHS Health Care management to develop new standards and processes for referring cases to OIG with questions involving eligibility.
- In 2016, the Child Care provider Investigation unit will begin to audit attendance records of a cross section of providers in addition to investigating child care centers where large scale fraudulent billing is already suspected. Attendance records are the only documentation that exists to show that child care centers provided the service to bill DHS. For this reason, it is crucial that providers keep accurate attendance records and have them available to both counties and DHS, as they are required to by law. It is hoped that by auditing these records that providers will be discouraged from over-billing, and if not, that DHS-OIG will learn about it early, before there is a large financial loss to the Child Care Assistance Program.

While the majority of CCAP providers are honest business people who follow laws and regulations, DHS OIG continues to be concerned about a segment of providers who seem to value maximizing their billing over providing quality child care. These concerns focus on:

- The poor quality of care being provided
- The lack of age-appropriate education taking place
- The lack of meaningful employment of CCAP mothers who are not receiving legitimate job experience, and
- The significant loss of public program funds due to fraud.

The Child Care Provider Investigations Unit currently has a number of open investigations involving child care centers in several areas of the state. While DHS has worked with the Legislature and the Governor's Office on legislation to curb financial fraud by a small number of child care providers, this unit is aware of several child care providers who alter their business practices to skirt the intent of legislation. This situation will require additional monitoring and possibly additional legislative changes to deter large scale fraud by some providers.

Office of Inspector General: Licensing

The Department of Human Services, in partnership with counties, licenses approximately 22,000 service providers and monitors and investigates their compliance with Minnesota laws and rules. The Licensing Division enforces licensing standards designed to protect the health, safety, rights, and well-being of children and vulnerable adults who receive assistance from human services programs. Licensed programs have the capacity to serve over 282,000 individuals in child care centers, adult day care centers, as well as residential and outpatient programs for people with chemical dependency or mental illness.

The Division's work involves:

- Licensing programs directly through monitoring and enforcement activities
- Overseeing licensing functions delegated to counties and private agencies
- Conducting investigations of alleged maltreatment.

Directly-licensed Programs

The licensing process is designed to assure that programs meet minimum standards related to the health, safety, rights and wellbeing of children and vulnerable adults. The OIG issued approximately 3,700 licenses to directly-licensed programs covering 12 types of services in 2015. This does not include approximately 4,000 secondary licenses issued under the parent Home and Community-Based Services (HCBS) licenses. Those secondary licenses govern the settings and physical plant standards, some of which are monitored by county licensing staff.

Table 12 summarizes the licensing activities related to directly-licensed programs from 2011 to 2015. Due to ongoing implementation of the new 245D HCBS standards (effective January 1, 2014), HCBS licensing staff conducted targeted licensing reviews in 2014 and 2015 that provided essential technical assistance to license holders who were licensed for the first time in 2014. More formal onsite inspections of all 245D HCBS license holders will resume in 2016.

Program Activity at DHS Directly-Licensed Facilities by Year 2011-2015

| Licensing Activity (by calendar year) ⁶ | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|-------|-------|-------|--------|---------|
| Number of directly-licensed programs (on 12/31) | 4,007 | 3,989 | 4,028 | 7,675* | 7,729** |
| Licensing inspections completed | 1,880 | 1,816 | 1,223 | 961 | 1,108 |
| Licensing complaint out-of-office investigations completed | 567 | 593 | 542 | 538 | 954 |
| Correction orders issued | 1,683 | 1,530 | 1,206 | 1,108 | 1,953 |
| Licensing sanctions issued | 247 | 239 | 159 | 367 | 367 |

Table 13

**Includes 3,973 HCBS facility licenses where DHS monitors the services being delivered and the county monitors the physical plant standards.*

***Includes 3,948 HCBS facility licenses where DHS monitors the services being delivered and the county monitors the physical plant standards.*

Data indicates an increase in the number of licensing inspections completed from 2014 to 2015, after the number had decreased for several consecutive years. Additionally, the number of licensing complaint investigations and correction orders increased, while the number of licensing sanctions stayed the same. The increases are likely due to the 2014 implementation of 245D licensing requirements that led to almost 600 new providers being licensed to deliver home and community-based services under the waivers. With implementation complete, DHS staff in 2015 spent more time conducting regular reviews in addition to providing technical assistance. Other possible reasons for the increase in inspections may be the increased volume of reports received that warrant investigation, and the licensing units continuing to increase the frequency of visits as staffing patterns stabilized. Also, with additional facilities now DHS-licensed, the number of investigations and correction orders also increased.

Delegated licensing

The Division also licenses approximately 14,000 programs through the oversight of licensing functions delegated by statute to counties and private licensing agencies. Services licensed through counties are generally provided in residential neighborhoods and most often in family homes such as family child care, child foster care, adult foster care, and family adult day services. In addition to counties, private agencies licensed by DHS oversee a limited number of child foster care providers.

Licensing activities completed by counties and private licensing agencies include:

- Processing license applications
- Conducting routine site visits

⁶ Data in this report reflects DHS licensing data for **calendar year** as indicated. Previous annual reports may present fiscal year data.

- Investigating complaints of alleged licensing requirement violations
- Issuing correction orders
- Recommending licensing sanctions to the Department.

The Division evaluates recommendations for sanctions made by the county and private licensing agencies, and issues sanction orders to license holders as necessary. In addition to county oversight of non-corporate adult foster care, county staff monitor the physical plant requirements for approximately 3,500 HCBS residential settings licensed under the 245D Home and Community-Based Services standards. The DHS Licensing Division monitors the services provided in those settings.

Table 13 summarizes the number of sanctions issued to license holders where the county or private agency is monitoring the services, along with the number of new and closed programs over the last five calendar years. These are often referred to as “indirectly licensed facilities” to indicate that the county and private agency monitors the services. Data from 2014 thru 2015 indicate a decrease in the number of licensing sanctions issued, an increase in the number of first-time licenses issued and a decrease in the number of programs that closed.

| Program Activity at DHS Indirectly-Licensed Facilities by Year 2011-2015 | | | | | |
|--|--------|--------|--------|---------|----------|
| Licensing Activity (by calendar year) | 2011 | 2012 | 2013 | 2014 | 2015 |
| Number of indirectly licensed programs (on 12/31) | 19,950 | 18,917 | 18,257 | 18,304* | 18,073** |
| Licensing sanctions issued | 641 | 725 | 759 | 757 | 593 |
| First time licenses issued | 2,136 | 2,006 | 2,068 | 2,101 | 2,273 |
| Programs that closed | 2,777 | 2,667 | 2,723 | 2,616 | 2,487 |

Table 14

**Includes 3,973 HCBS facility licenses at which DHS monitors the services being delivered and the county monitors the physical plant standards.*

***Includes 3,948 HCBS facility licenses at which DHS monitors the services being delivered and the county monitors the physical plant standards.*

Maltreatment Investigations

DHS Licensing is responsible for completing maltreatment investigations in approximately 8,900 licensed settings. Minnesota statutes govern the process and timeframe for completing an

investigation.⁷ The process for maltreatment investigations was developed to protect the health, safety, and wellbeing of vulnerable adults and children who receive services in DHS licensed programs. A challenge is balancing the need for quick turnaround of these cases against increasingly complex maltreatment laws while maintaining high standards of quality and integrity.

When a program is determined to have been responsible for substantiated maltreatment, the determination results in a licensing sanction. When an individual is determined to have been responsible for substantiated maltreatment, and the maltreatment is determined to have been serious or recurring, the determination results in the disqualification of the individual from providing direct contact services in all services within the scope of the Human Services Background Study Act.

Table 14 lists pertinent information concerning all reports received by the Licensing Division (including both maltreatment and licensing related), assignment and investigations completed. From 2011 thru 2015, the number of reports received has increased each year, with a notable increase (20 percent) in reports received in 2015 over 2014. The number of reports that received in-office investigation only and the number of reports where it was found that DHS did not have jurisdiction also increased over this time period. From 2014 to 2015, the finding of no jurisdiction increased notably, meaning reports received fell under the jurisdiction of another agency or another unit within DHS. From 2011 to 2015, reports that were assigned for out-of-office maltreatment investigations declined slightly while licensing investigations increased during this period.

DHS Investigations Received and Assigned, 2011-2015

| | 2011 | 2012 | 2013 | 2014 | 2015 |
|--|-------|-------|-------|-------|-------|
| Reports received | 4,702 | 5,126 | 5,333 | 5,882 | 7,077 |
| Not assigned for out-of-office investigation (in-office investigation only) | 2,993 | 3,255 | 3,688 | 3,932 | 4,263 |
| No jurisdiction | 310 | 428 | 430 | 473 | 1,046 |
| Assigned, out-of-office maltreatment investigation | 848 | 781 | 624 | 858 | 820 |
| Assigned, out-of-office licensing investigation | 551 | 662 | 591 | 619 | 948 |

Table 15

Table 15 shows the results of activity related to maltreatment investigations conducted by DHS. All maltreatment investigations are assigned for out-of-office investigations. Maltreatment

⁷ The investigations are completed according to Minnesota Statutes, section 626.557, the Vulnerable Adults Act, and Minnesota Statutes, section 626.556, the Maltreatment of Minors Act.

out-of-office investigations **completed** differ from the number **assigned** and may include reports assigned from previous years and investigations and reports assigned and not completed in a calendar year. In 2014, the Division began a Continuous Improvement Project in which a plan was developed and implemented to eliminate the backlog of several hundred cases that had been assigned for out-of-office investigation but had not yet been completed. This resulted in an increase of completed reports that had been assigned in prior years.

DHS Results of Maltreatment Out-of-Office Investigations 2011-2015

| | 2011 | 2012 | 2013 | 2014 | 2015 |
|--|-------|-------|-------|-------|------|
| Maltreatment out-of-office investigations completed | 681 | 651 | 658 | 1,404 | 796 |
| - Reports with maltreatment not substantiated | 484 | 471 | 439 | 885 | 549 |
| - Reports with maltreatment substantiated | 197 | 180 | 219 | 519 | 247 |
| - Percent substantiated | 28.9% | 27.6% | 33.3% | 37% | 31% |
| - Number of individuals disqualified | 68 | 61 | 49 | 165 | 75 |

Note: The 2014 spike in completed investigations represents the project to eliminate the backlog of investigations.

Table 16

2015 Accomplishments

Maltreatment investigation streamline project. In May 2014, the Licensing Division began working with the DHS Office of Continuous Improvement to review all aspects of the maltreatment investigation process. The goal was to develop a comprehensive set of steps for staff to improve the timeliness of maltreatment reports assigned for investigation after June 30, 2014, while continuing work on eliminating the backlog of investigations pending longer than 60 days.

On July 1, 2014, the Investigations Unit implemented new workflows and processes to ensure that reports are completed within 60 days. The changes include:

- Creating a central intake unit
- Developing an electronic file management and workflow system, and
- Streamlining the review and approval processes when maltreatment is not substantiated.

Improvements implemented in 2014 have eliminated the backlog of pending reports that exceed the 60-day timeframe. In 2015, only 16 reports exceeded the 60-day timeline for completion.

The Licensing Division made these changes part of its ongoing operations and continued to increase the timeliness of completing maltreatment reports. It also made a concerted effort to reduce the number of reports pending more than 60 days. Prior to undertaking the continuous improvement project, the average length of time to complete an out-of-office investigation was seven months. In 2015, the average length of time to complete an out-of-office investigation was 42 days. For all reports received in 2015, including those that did not result in an out-of-office investigation, 95% percent were completed within the statutory 60-day deadline.

Trends:

This report offers an opportunity to examine trends over previous years. Notable trends in 2015 include:

- An increase in family child care deaths
- A substantial increase in possible maltreatment or licensing violations reports received
- More than double the number of reports received where DHS lacked jurisdiction.

In 2015, five infants died in family child care compared to one infant death in 2014 and three deaths in 2013. Previous annual reports explored the alarming trend in infant deaths in licensed family child care settings as well as DHS' response which included new training requirements as part of a high profile "Safe Sleep Initiative" in 2013. DHS anticipates a reduction in infant deaths as a result of implementation of new federal requirements for oversight of family child care providers described below.

The number of reports received by DHS pertaining to possible maltreatment or licensing violations is increasing. In 2015, DHS Licensing received approximately 1,200 more reports of possible maltreatment or licensing violations than in 2014, an increase of 20 percent. This continues the upward trend DHS has experienced in recent years; total reports received has increased by more than half since 2011. The implementation of new licensing requirements under 245D is likely one of the causes for these increases.

Chapter 245D expanded the scope and complexity of licensing. Prior to January 1, 2014, the scope of HCBS licensing oversight included 594 licensed providers serving approximately 12,000 people on the Developmental Disability Waiver Program. After the new licensing standards were enacted, which required licensing oversight for the additional HCBS Disability Waivers, an additional 600 providers obtained a license in order to continue to provide services. Now 1,286 providers licensed under Chapter 245D provide services to more than 32,000 people over 65 and/or with a disability, resulting in an increase in licensing- and maltreatment-related reports being sent to the Licensing Division.

The number of “no jurisdiction” reports received by DHS is also on the rise. “No jurisdiction” reports received by DHS more than doubled from 2014 to 2015, increasing from 473 to 1,046. This is likely due to the creation of the Minnesota Adult Abuse Reporting Center (MAARC). MAARC began operating on July 1, 2015; since then, the Center receives and refers reports of possible maltreatment of adults to DHS and other agencies, such as the Department of Health and law enforcement. In 2015, 73% of the no jurisdiction reports were received from July through December. MAARC may require improved training, procedures, or other changes to ensure reports are sent to the correct agencies.

Overall trends indicate increased numbers of monitoring and enforcement activity for directly licensed programs as well as a rise in activity related to overseeing licensing functions and conducting investigations of maltreatment in DHS licensed facilities.

Looking Forward

Implementing the Child Care Development Block Grant Act of 2014. The federal Child Care and Development Block Grant (CCDBG) is a significant source of funding for Minnesota’s Child Care Assistance Program. On November 19, 2014, the Child Care and Development Block Grant Act of 2014 became law. This action reauthorized the law governing CCDBG for the first time since 1996 and represents an historic re-envisioning of the program. Passed with strong bipartisan support, the new law makes significant advancements by defining health and safety requirements for child care providers, outlining family-friendly eligibility policies, expanding quality improvement efforts, and ensuring parents and the public have clear information about the child care choices available to them.

The changes in the new law emphasize that health and safety are the foundation of quality child care. State licensing systems provide a vehicle to ensure that child care programs meet minimum requirements for the health, safety and well-being of children in out-of-home care.

Many of the changes will require state law changes, funding, and/or systems programming changes. The most significant changes for child care center and family child care licensing include:

- Annual unannounced inspections of licensed child care centers and family child care programs to monitor compliance with all child care licensing standards. Inspections are currently done every two years.
- Expanded background study requirements to include use of fingerprints, a review of the FBI's National Criminal Repository for each background study, and repeat background studies every five years.
- New requirements for licensing, monitoring and inspection reports. Electronic publishing of the number of deaths, serious injuries, and instances of substantiated maltreatment presented in a consumer-friendly and easily accessible format.
- Requirements for a national hotline and website for child care consumer information that will allow reporting of maltreatment and licensing violations.
- Requirements to ensure that licensors are qualified to inspect licensed programs, and receive training in related health and safety requirements and in all aspects of the state's licensure requirements.
- Requirements for a statewide child care disaster plan dealing with potential emergencies or disasters. Requires licensed programs to address events - such as violence at a child care facility - as part of emergency preparedness and response planning.
- Requires providers who are otherwise exempt from licensing by the state to meet all health and safety requirements, be inspected annually, and comply with new federal background study requirements if they provide services to a child receiving CCDBG assistance.

To help the Division meet these new data reporting requirements, Licensing is expanding the use of technology by developing and using mobile technology for onsite inspections. This will allow for better and more immediate use of data for caseload management and supervisory oversight. It will also allow Licensing to provide online information about inspection reports and the results of monitoring visits conducted by state and county licensors. The new technology will create efficiencies that will lead to increased protection and improved quality of care for children.

Because inspections of licensed providers only occur every two years, Licensing will seek legislative funding to increase staffing to meet the requirement for annual inspections. Additional staffing will also be needed to conduct inspections of approximately 650 license-exempt programs that, while exempt from licensure, receive CCDBG funding.

Child Foster Care. Child foster care is a critical component of Minnesota's child welfare system. Child foster care is a temporary arrangement for children who cannot live safely in their own homes. When the system operates as intended, foster parents provide safe, nurturing homes for children until they can reunite with their birth families or find another permanent home.

The first goal of foster care is to keep children safe. To ensure this, all child foster care programs must be licensed by the State. The applicant and other household members must

successfully pass a background study that includes a check of the FBI's National Criminal Repository.

During 2015, the Licensing Division, working with staff from the Child Safety and Permanency Division, took on several data and policy projects relating to licensed child foster care homes. These efforts coincided with the implementation of Northstar Care for Children⁸ in January, the investigation by the Licensing Division of two deaths in licensed child care settings, and the creation of the DHS Child Foster Care Workgroup in June.

In Minnesota, more than 70 percent of children in out-of-home placement are typically in a foster care home setting. In general, over the last 10 years the number of licensed child foster care homes has trended downward. On July 1, 2004, there were 4,905 licensed programs. Ten years later, there were 3,203 licensed programs. This represents a 30% decrease. However, it appears that the implementation of Northstar Care for Children in 2015, with rollout in late 2014, is reversing this trend. On August 1, 2014, there were 3,148 child foster care licenses; one year later there were 3,484 and as recent as January 1, 2016, there are 3,635.

Shortages of qualified foster care providers, lack of coordination among foster care partners, and the noticeable prevalence of African-American and American Indian children in foster care require all stakeholders to improve Minnesota's foster care system and permanency outcomes for these children. DHS formed a Child Foster Care Workgroup in August to help guide an examination of policies and practices that can increase the number of child foster care providers and ensure that children are safe while in foster care. The group issued a final [report](#) in late 2015.

The Commissioner's Child Foster Care Work Group advised the commissioner and department leadership on systemic and practice improvements in the child foster care system in Minnesota. The work group reviewed the child foster care system to assess practices, especially at critical decision points, to ensure children are safe, improve their well-being, and help them find permanent homes.

The work group's initial recommendations are in the following areas:

1. **Recruitment, application and licensing processes** for foster care homes overseen by county, tribal, and private agencies.
2. **Policies on how children are removed from their homes**, with a focus on how to minimize and treat trauma, including by keeping sibling groups together.

⁸ *The Northstar Care for Children Act is a [state law](#) that took effect Jan. 1, 2015. It made significant changes in programs creating a uniform set of benefits and processes for children age six and older in foster care, former foster children whose legal custody has been transferred to a relative, and former foster children who have been adopted. Although not uniform, children age five and younger also fall within the unified benefits and processes. Northstar Care for Children assists the families caring for children and supports permanency for foster children. The previous programs continue for current children and will be phased out over time. Northstar Care for Children maintains the same level of benefit for children as they move from foster care to permanency through adoption or with permanent custody transferred to a relative. The previous benefit discrepancy as the child moved to permanency was significant and had been difficult for many foster parents and relatives to overcome when they wanted to become a child's legally permanent parent.*

3. **Quality and availability of staffing and resources**, including resources for case coordination to improve educational outcomes, medication management, screenings, and service referral/monitoring, family visitation planning, and reunification/permanency planning.

The Licensing Division will continue to work with DHS program areas, county and private licensing agencies, and providers and applicants to identify and eliminate, whenever possible, barriers to obtaining a license or accessing required training.