



## OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA

# Controlling Improper Payments in the Medical Assistance Program

August 20, 2003

The state's approach to controlling improper Medical Assistance payments needs more focus, coordination, and commitment.

*The Office of the Legislative Auditor conducted a broad evaluation of Minnesota's approach to controlling improper payments in the Medical Assistance (MA) program, which is Minnesota's Medicaid program. The state's approach meets federal requirements and has elements that are recommended in national fraud control studies. Nevertheless, we think the state should consider additional ways to strengthen its payment control system. Overall, we think the state's approach to controlling improper MA payments needs more focus, coordination, and commitment.*

*The state does not have a comprehensive, system-wide strategy to guide its payment control efforts, and the Department of Human Services (DHS) has not made "controlling improper payments" a department-wide core value or goal. In addition, DHS has not comprehensively assessed the amount or nature of improper payments occurring in Minnesota, or systematically evaluated the effectiveness of existing and prospective payment controls. Without this information, DHS does not know whether it is over- or under-investing in its payment control system, or whether it is allocating resources in the right areas.*

*Our report provides a range of recommendations and options for strengthening the state's MA payment control system. As a first step, we recommend that DHS provide the 2004 Legislature with an action plan for how it will address issues raised in the report.*

Medical Assistance (MA) provides health care services to low-income families, pregnant women, elderly, and people with disabilities. The Minnesota Department of Human Services (DHS) administers the program, which had an average monthly caseload of 404,000 recipients in fiscal year 2002 and cost about \$4.1 billion, half of which was funded by the federal government.

Given the size and cost of the MA program, the state has a strong interest

in preventing and detecting fraud, abuse, and other types of improper payments, such as inadvertent errors. DHS is largely responsible for payment control efforts, which include, among other things, verifying provider eligibility, processing claims, overseeing managed care contracts, reviewing and investigating suspicious payments, and recovering improper payments. In support of these activities, the Attorney General's Office investigates

**The Department of Human Services (DHS) has not made controlling improper payments a department-wide core value or goal.**

and prosecutes provider fraud cases, and Minnesota's 87 counties verify recipient eligibility and prosecute recipient fraud cases.

Based on a substantial body of literature, we identified ten key components of a comprehensive payment control strategy, as listed in the table below.

**Key Components of a Comprehensive Payment Control Strategy**

1. Assess the size and nature of the improper payment problem.
2. Coordinate the various payment control activities.
3. Have appropriately trained staff.
4. Emphasize preventing improper payments.
5. Proactively detect emerging fraud schemes and patterns.
6. Control for both simple and complex fraud schemes.
7. Make sure that every claim faces some risk of review.
8. Give managed care proper attention.
9. Ensure sufficient consequences.
10. Periodically assess and revise the payment control system.

We compared Minnesota's strategy with these ten components and assessed the system's strengths and weaknesses. While we found the state's overall approach to be reasonable, we identified several opportunities to strengthen Minnesota's MA payment control system.

**DHS Needs to Develop and Emphasize a System-Wide Payment Control Strategy**

DHS' payment control activities are divided among nine divisions and fall under the authority of all four of the department's assistant commissioners, but DHS does not have a unified strategy to guide its efforts. In addition, none of DHS' department-wide core values, goals, or performance measures

directly address controlling improper payments. Instead, the department's values and goals emphasize serving clients. This imbalance between serving clients and program controls has created some tension within DHS. For example, DHS staff who investigate improper payments want to increase the department's billing oversight for personal care assistants (PCAs), who provide in-home assistance for the elderly and disabled. However, the DHS supervisors who oversee and manage the PCA services said that additional oversight is unnecessary and would potentially restrict access to health care by dissuading PCAs from participating in MA. To improve coordination across the department and to emphasize the importance of program integrity, we recommend that DHS articulate a department-wide strategic plan that includes objectives, goals, and performance measures for controlling MA fraud, abuse, and other improper payments.

**DHS Needs to Assess the Size and Nature of Minnesota's Improper Payment Problem**

To implement a more strategic approach to controlling improper payments, DHS needs better information on the amount and nature of improper payments occurring within the MA program. The department has data on improper payments detected through its current system but has not estimated the magnitude of improper payments that are slipping through the system. The best way to obtain this information is to audit a representative sample of paid claims. While a detailed audit can cost up to \$1 million, it can also provide valuable insights and direction. As a less costly alternative, the state could do a series of smaller audits that target suspected problem areas, such as payments for personal care services. Without a comprehensive understanding

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**DHS does not regularly evaluate the costs and benefits of existing or prospective payment controls.**

of the improper payment problem, the state does not know whether it is over- or under-investing in its payment control efforts or whether it is allocating resources in appropriate areas.

**Minnesota Should Periodically Assess and Revise the Payment Control System**

Criminals who commit fraud try to find and exploit new vulnerabilities in the system. To keep up with evolving fraud schemes, DHS' approach to controlling improper payments needs to be periodically assessed and revised. While DHS changes elements of its payment control system when it becomes aware of weaknesses, we found that the department is not always proactive in detecting emerging fraud schemes nor does it regularly evaluate the costs and benefits of individual payment control efforts so that it can effectively target resources.

For example, DHS made a questionable staffing decision in 1994 that could have been identified and corrected with appropriate analysis. At that time, DHS cut the number of staff that investigate improper payments from 14 to 7. We estimate that this saved DHS approximately \$350,000 per year. However, after the staff cuts, DHS' improper payment settlements with providers dropped by \$1.7 million per year. While this change occurred ten years ago and several other factors could also help explain the drop in settlements, the fact that the staff reduction occurred at the same time raises questions about the cost effectiveness of this decision. As of June 2003, DHS had roughly the same number of investigators as it had after this reduction.

In addition, DHS needs to improve its automated system that tracks improper payment detection and investigation

efforts because it does not include some data needed to evaluate the department's performance. For instance, while DHS records the source of the tip that spurred an investigation in its paper files, it does not consistently include the source in its case tracking system. In addition, while DHS investigators record the settlement amounts resulting from their investigations in the case tracking system, the actual recoveries are tracked in a separate system. Effectively linking these pieces of information is necessary if DHS wants to track the benefits of its payment control initiatives. For example, each time DHS pays a provider for a set of MA services, the department mails a form—called an explanation of medical benefits—to the recipient of these services. The form specifies the type and date of services that were supposedly provided and instructs the MA recipient to review the listed services and report any inaccuracies, particularly any services that the recipient did not receive. If DHS wants to analyze the benefits of this initiative, it needs to identify investigations that were triggered by recipients responding to this form in its case tracking system and assess the actual recoveries that resulted.

**DHS May Need to Consider Additional Payment Controls**

In addition to identifying key strategic issues, our evaluation also identified more specific payment control changes that the state should consider. For example, DHS does not engage in several provider enrollment practices used by some other states, such as conducting criminal background checks for a wide-range of providers and visiting providers before they enroll in the MA program. In addition, DHS does not provide specialized fraud detection training for claims processing staff. The department also could use data-mining software to analyze paid

claims for complex fraud schemes—such as a group of health care providers who refer patients to each other for medically unnecessary or costly services.

Finally, Minnesota could add tools for prosecuting MA fraud cases. Most prosecution in Minnesota occurs under general theft, perjury, and forgery statutes. In contrast, other states have adopted extensive criminal and civil statutes specific to health care fraud. For example, some states have enacted criminal “anti-kickback” laws, which make it a crime for one provider to receive a monetary reward from another provider for referring an MA recipient for services.

DHS’ decision to pursue these or other payment controls should be made in the context of the strategic issues discussed above—assessing the size and nature of Minnesota’s improper payment problem, developing a system-wide strategy, and assessing the effectiveness of current and prospective payment controls.

The full evaluation report, *Controlling Improper Payments in the Medical Assistance Program* (#pe03-07), includes the agency’s response and is available at 651-296-4708 or:

[www.auditor.leg.state.mn.us/  
ped/2003/pe0307.htm](http://www.auditor.leg.state.mn.us/ped/2003/pe0307.htm)

### Summary of Agency Response:

*In a letter dated August 6, 2003, Kevin Goodno, Commissioner of the Department of Human Services, wrote, “As your report states, our approach to program integrity meets all federal requirements and is reasonable. I am proud of the efforts of department staff in tackling fraud and abuse within the Medical Assistance program; reducing improper payments continues to be a DHS priority.”*

*The Commissioner, however, also noted, “The report identifies areas of our integrity program that need improvement and we fully intend to address them. I will evaluate each of your recommendations and determine those that can be implemented promptly. Some of your recommendations can be addressed only with additional monetary and staff resources. In this time of reduced resources, we will need to determine which recommendations are most effective and efficient in accomplishing the goal of controlling improper payments.”*