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January 30, 2020

Sen. Michelle Benson, Chair
Senate Health and Human Services Finance and
Policy Committee
3109 Minnesota Senate Bldg.
St. Paul, MN 55155

Sen. John Marty, Ranking Minority Member
Senate Health and Human Services Finance and
Policy Committee
2211 Minnesota Senate Building
St. Paul, MN 55155

Rep. Tina Liebling, Chair
House Health and Human Services Finance
Committee
477 State Office Building
St. Paul, MN 55155

Rep. Joe Schomacker, Ranking Minority Member
House Health and Human Services Finance
Committee
331 State Office Building
St. Paul, MN 55155

Sen. Jim Abeler, Chair
Senate Human Services Reform Finance and
Policy Committee
3215 Minnesota Senate Bldg.
St. Paul, MN 55155

Sen. Jeff Hayden, Ranking Minority Member
Senate Human Services Reform Finance and Policy
Committee
2209 Minnesota Senate Building
St. Paul, MN 55155-1206

Rep. Rena Moran, Chair
House Health and Human Services Policy
Committee
575 State Office Building
St. Paul, MN 55155

Rep. Debra Kiel, Ranking Minority Member
House Health and Human Services Policy
Committee
255 State Office Building
St. Paul, MN 55155

[Laws of Minnesota 2019, First Special Session, Chapter 9, Article 2, Section 129](#), directs the Department of Human Services (DHS) to report by Jan. 15, on recommendations for legislation that identifies and clarifies fraud investigative responsibility as it relates to programs administered by DHS.

DHS, in consultation with county partners, researched and discussed current statutory responsibilities relating to fraud and gathered the information below.

Legislative Request – Session Law Language

DIRECTION TO COMMISSIONER; RESPONSIBILITY FOR FRAUD INVESTIGATIONS IN PUBLIC PROGRAMS.

No later than January 15, 2020, the commissioner of human services, in consultation with counties, shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services on recommendations for legislation that identifies and clarifies the responsibilities of the department and counties for fraud investigations in public programs administered by the commissioner.

EFFECTIVE DATE.

This section is effective the day following final enactment.

Approach

DHS' Office of Inspector General (OIG) reviewed current state and county statutory authority to conduct fraud investigations, as well as mapped the process for which fraud investigations are conducted within the OIG and how referrals are made internally and to our county partners.

As required by the legislation, the OIG consulted with the counties in developing this memorandum. The OIG reached out to the Association of Minnesota Counties (AMC) and the Minnesota Association of County Social Service Administrators (MACSSA) to discuss responsibilities for fraud investigations. On Nov. 15, the OIG convened a meeting of human service managers and administrators that included Anoka, Hennepin, Lake, Olmsted, Stearns, Scott and Washington counties. The OIG requested additional comments from counties on areas where investigative authority for fraud in human services programs could be improved or clarified.

Findings

Through our evaluation of statutory authority and discussions with county partners, DHS determined that there is substantive value in identifying opportunities for enhanced communication and training activities between state and county fraud investigators. Ongoing, constructive engagement is viewed as the most effective approach to addressing the challenges of fraud investigations, especially when there is dual statutory authority at the state and county levels. DHS is not recommending any specific legislative action at this time. This memorandum provides additional information on investigation challenges, and DHS looks forward to working with its county partners to continue making improvements to program integrity.

Medical Assistance provider fraud

The OIG investigates alleged Medical Assistance (MA) provider fraud and counties investigate alleged recipient fraud in health care and other public assistance programs. In the MA program, counties identified the need for improved administrative processes, rather than statutory changes – particularly the need for improved lines of communication and training between the state and counties. Counties stated that they were sometimes unaware of whether a tip regarding provider fraud was investigated by the OIG and, if so, what the outcome of that investigation was. Additionally, counties identified the need for additional training on what to do when MA provider fraud is suspected and how to make referrals to the OIG or various health plans.

Child Care Assistance Program (CCAP) fraud

Minnesota Statutes sections [256.983](#) and [245E.02](#) give both the counties and the OIG authority to investigate child care assistance provider fraud. Counties notify DHS if they are investigating a CCAP provider, which may be done by submitting the Child Care Provider Investigation Communication Form (DHS-6811). The OIG will either conduct the investigation or opt to support the county in its investigation.

This dual responsibility for investigating CCAP provider fraud allegations has the potential to create misunderstanding as to whether DHS or a county is responsible for the investigation. Counties expressed the desire to have more information about the results of state-led investigations.

Additional county feedback

Counties expressed a desire for centralized training, sharing of best business practices, and opportunities for continuous improvement in fraud prevention, investigation and prosecution by county attorneys. Counties also expressed a need to further develop forensic accounting and audit skills, as opposed to fraud training solely focused on law enforcement. Counties also expressed a desire that data be made more accessible and shared more freely by the OIG.

Currently, the only statewide trainings for fraud investigators are provided twice per year by a private association unaffiliated with DHS. Additionally, not all involved in fraud investigations participate in those trainings. Counties expressed the desire for the OIG to play a larger role in statewide training and consultation, and for those trainings to be held regularly throughout the year. In addition, counties also highlighted the need for more CCAP provider training to ensure that providers understand program policies and billing requirements. DHS has developed an online CCAP policy training for providers; we will notify providers when it becomes available.

County partners stated a need for additional resources for fraud investigations. In 2019, DHS received \$425,000 in additional Fraud Prevention Investigations (FPI) grant funding, including federal matching

funds, bringing the total available FPI grant funding to approximately \$4.6 million. At current funding levels, the grant does not support the full costs of county investigations statewide.

Path Forward

As noted above, DHS is not making any specific legislative recommendations at this time. However, from the above findings, DHS will pursue the following activities in collaboration with its county partners and other stakeholders:

More collaboration between the OIG and counties – County partners stated a desire for the OIG to take a more central role in leading, training and establishing best practices in fraud investigations with the counties. County administrators discussed convening regular stakeholder meetings within the Association of Minnesota Counties, where issues, best practices and trends could be discussed. The OIG currently does not have adequate staff resources to meet the needs for more robust training on statutes and best practices in fraud investigations. However, the OIG will explore opportunities for enhancing its collaboration with counties to improve communication and provide technical assistance to counties during fraud investigations. DHS will also engage in ongoing collaboration with counties to ensure that needed data is more accessible, recognizing that data privacy laws can limit what data may be shared.

Program simplification – Overpayments are frequently the result of administrative error, not recipient or provider fraud. DHS program staff will continue collaborating with counties to identify needs for policy changes and investments in technology systems that should result in fewer administrative errors and unnecessary fraud investigations. Examples of potential simplification efforts include investing in improvements to technology for electronic income verifications and aligning eligibility standards among public assistance programs whenever possible. Reducing unnecessary investigations into what ultimately are errors should allow fraud investigation staff to do their work more efficiently.

Guidance for fraud reporting – The OIG will work to clarify guidance for county financial workers on when to make a referral for investigation. A stronger partnership and training will help county workers have a better understanding of when eligibility concerns should be elevated to their fraud division for a potential investigation.

In closing, thank you for the opportunity to consult with our county partners in a collaborative effort to better ensure program integrity. We look forward to continuing that important work.

Sincerely,



Charles E. Johnson
Deputy Commissioner