

*Report on*

# MEDICARE COMPLIANCE

**Weekly News and Compliance Strategies on Federal Regulations,  
Enforcement Actions and Audits**

## **Trump Creates DOJ Fraud Enforcement Division, Targets Minn. Medicaid Payments**

President Donald Trump on Jan. 8 unveiled another national anti-fraud strategy that seems to be all-encompassing.<sup>1</sup> In a fact sheet, the White House said it's establishing the U.S. Department of Justice (DOJ) Division for National Fraud Enforcement to enforce federal criminal and civil laws against fraud affecting federal government programs and benefits, businesses, nonprofits and private citizens.

It's murky for now, however, how the new division will dovetail with other anti-fraud divisions and initiatives.

The fact sheet highlighted DOJ's investigations and prosecutions of fraud in Minnesota health care and social services programs. Other gears are moving in tandem. Pending a hearing, CMS is planning to withhold part of the federal share of Medicaid funding for Minnesota. It would be an exceptionally rare event to put the Federal Medical Assistance Percentage (FMAP) on ice, said attorney Judy Waltz, with Foley & Lardner LLP. "We have to worry this approach could happen in other states." CMS also directed the Minnesota Department of Human Services to freeze enrollment of 13 provider types. "It's a very aggressive posture for them," she said.

On the national front, the White House said the assistant attorney general who heads the new fraud enforcement division will "be responsible for leading the Department's efforts to investigate, prosecute, and remedy fraud affecting the Federal government, Federally funded programs, and private citizens. This role will oversee multi-district and multi-agency fraud investigations; provide advice, assistance, and direction to the United States Attorneys' Offices on fraud-related issues; and work closely with Federal agencies and Department components to identify, disrupt, and dismantle organized and sophisticated fraud schemes across jurisdictions."

What remains to be seen is how the new division will mesh with existing initiatives, including the Criminal Division's white collar enforcement plan, which targets fraud against Medicare and other government programs (among other things);<sup>2</sup> the DOJ-HHS False Claims Act Working Group, which has set its sights on fairly traditional types of health care fraud; and the Civil Rights Fraud Initiative, which points the False Claims Act at discrimination. Also unknown is how the national fraud enforcement division would be staffed in light of staffing cuts at DOJ. For example, the Civil Fraud Section in the Civil Division is down more than 25%.

"The two biggest questions about this new division are, where does it fit into the existing structure and how will they resource it? DOJ has historically low staffing levels in a lot of areas," said Tony Burba, a former trial attorney in DOJ's Health Care Fraud Unit. "Are you going to be moving people out of other enforcement areas and into this new division? Will there be a hiring kick and if so, where will they come from?"

### **'There's No Shortage of Fraud'**

The fact sheet focused on enforcement efforts under way in Minnesota. It stated that the FBI is investigating dozens of the state's health care and home care providers for fraud, sending in forensic accountants and data analytics teams "and investigating potential links to elected officials and terrorist financing." DOJ also has "multiple, active investigations" in progress against Minnesota safety-net programs, such as Feeding Our Future, Housing Stabilization Services, Early Intensive Developmental and Behavioral Intervention programs, and is prosecuting the Evergreen Recovery Medicaid fraud defendants. And the Small Business Administration has stopped annual grant payments to Minnesota.

Minnesota is not alone. HHS has cut off an additional \$10 billion to five Democrat-run states, including Minnesota, according to the fact sheet.

"There's no shortage of fraud, so there's plenty for a good-faith prosecutor to do," said Burba, with Barnes & Thornburg LLP. "It could be something that grows into an effective arm of DOJ and maybe subsume the civil and criminal division and maybe the national security division" (to address fraud in defense contracting). He hopes the new division takes its cue from DOJ's innovative approaches to fraud enforcement, such as Medicare strike forces and the use of data analytics to identify outliers. If that's the case, "there's a lot of opportunity for them to do good," Burba said.

The risk of an enforcement action against a company in Democratic-led states “is probably more acute than it would be in other places,” given the White House fact sheet’s focus on action taken in those states, Burba noted. The credibility and effectiveness of the new enforcement division may depend on whether “its focus is on finding the fraud wherever it is, regardless of the political affiliation of the state where it’s happening.”

### CMS Freezes Provider Enrollment, May Cut FMAP

CMS is simultaneously moving to halt FMAP—the federal government’s share of most Medicaid spending—to Minnesota Medicaid. The grounds are CMS’s determination that the state “is substantially out of compliance with federal requirements” because “the Minnesota Medicaid agency fails to adequately identify, prevent, and address fraud, waste, and abuse (FWA) in its Medicaid program,” according to a notice in the Jan. 8 *Federal Register*.<sup>3</sup> The notice is presented as an opportunity for the state to request an administrative hearing on CMS’s findings.

“States are required to ensure their state [Medicaid] plan provides a mechanism to receive reports from beneficiaries and others and compile data concerning alleged instances of waste, fraud, and abuse relating to the operation of the Medicaid Act,” CMS Administrator Mehmet Oz, M.D., wrote in a letter to Minnesota Governor Tim Walz embedded in the *Federal Register* notice. “In addition, pursuant to 42 CFR 455, Subpart A, States are required to implement methods for identifying, investigating, and referring suspected Medicaid fraud. This information and related data sources must be used to pursue robust preliminary and full investigations, as appropriate, as well as refer cases to law enforcement, if applicable.”

The CMS letter contends the state’s Dec. 31, 2025, corrective action plan “is deficient. The plan relies heavily on temporary or future-contingent measures, lacks enforceable timelines and performance metrics, acknowledges current noncompliance with key federal requirements, and provides limited assurance of accountability for past misconduct.”

Walz recalls a similar situation from about 40 years ago when CMS threatened to cut off Guam’s federal financial participation money. That dispute, which was about abortion, ended in a last-minute settlement without a loss of funding. “It has at least been threatened before, but I don’t remember ever seeing anything where CMS has actually done it,” she said.

### Authority to Freeze Enrollment Comes From ACA

CMS’s authority to impose a freeze, or moratorium, on Medicaid provider enrollment because of a high risk of fraud, waste and abuse comes from the Affordable Care Act (ACA), which also created Obamacare, Walz said.<sup>4</sup> According to the Minnesota letter, the 13 categories that fall under the freeze are adult companion services, adult day services, adult rehabilitative mental health services, assertive community treatment, community first services and supports, early intensive developmental and behavioral intervention, individualized home supports, integrated community supports, intensive residential treatment services, night supervision services, nonemergency medical transportation services, peer recovery support services and recuperative care. CMS also told the state to revalidate the enrollment of existing providers in the 13 categories.

“At the end of the day, you wonder how the state Medicaid program can assure care is getting to who needs it,” Walz said. “CMS’s point is probably that services are getting to people who don’t need them.”

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### Endnotes

- 1 The White House, “Fact Sheet: President Donald J. Trump Establishes New Department of Justice Division for National Fraud Enforcement,” January 8, 2026, <https://bit.ly/3YHiHMI>.
- 2 U.S. Department of Justice, Office of Public Affairs, “Head of the Criminal Division, Matthew R. Galeotti Delivers Remarks at SIFMA’s Anti-Money Laundering and Financial Crimes Conference,” speech, Washington, D.C., May 12, 2025, <https://bit.ly/3SIK31P>.
- 3 Notice of Opportunity for Hearing on Compliance of Minnesota State Plan Provisions Concerning Program Integrity and Fraud, Waste, and Abuse With Title XIX (Medicaid) of the Social Security Act, 91 Fed. Reg. 1,539 (Jan. 14, 2026), <https://bit.ly/4qvslhU>.
- 4 Medicare, Medicaid, and Children’s Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers, 76 Fed. Reg. 5,862 (Feb. 2, 2011), <https://bit.ly/45Ooh3N>.