



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



July 1, 2026

Attorney General Marty Jackley  
Office of the Attorney General for South Dakota  
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Pierre, SD 57501-8501

Director Stephan Gemar  
Medicaid Fraud Control Unit  
1302 E. Hwy 14, Suite 1  
Pierre, SD 57501-8504

Dear Attorney General Jackley and Director Gemar:

American taxpayers provide nearly half a billion dollars every year to State governments to fund State Medicaid Fraud Control Units (MFCUs or Units), which are obligated by Federal law to use that money to effectively fight Medicaid fraud and protect patients from abuse and neglect. South Dakota receives approximately \$1 million per year from American taxpayers for these purposes. Given this substantial investment in the South Dakota MFCU, American taxpayers and the Federal Government expect the Unit and the South Dakota Attorney General to use its Federal grant dollars to effectively fight Medicaid fraud and protect Medicaid patients from abuse and neglect.

The Department of Health and Human Services Office of Inspector General (OIG) is conditionally recertifying the South Dakota MFCU, subject to the special condition described in this letter. This action reflects OIG's recognition of the Unit's potential and its obligation to ensure that every MFCU operates effectively, uses Federal funds appropriately, and consistently delivers results that protect the integrity of the Medicaid program. Although the South Dakota MFCU has taken steps to address challenges that may impede its effectiveness, the Unit must take additional action. Additional improvement is necessary to ensure compliance with Federal requirements and to ensure that the Unit operates at the standard that taxpayers expect. Certain weaknesses persist, particularly in areas essential to the Unit's statutory responsibilities, such as referrals.

OIG takes seriously its responsibility to ensure that Units receiving these Federal funds are fulfilling the MFCU mission effectively. As part of that responsibility, OIG evaluates each Unit's performance, operational capacity, investigative outcomes, and overall adherence to statutory and regulatory requirements. This oversight is essential to maintaining public trust and ensuring that every MFCU contributes meaningfully to the broader fight against fraud, waste, and abuse within the Medicaid program.

OIG is conditionally recertifying the South Dakota MFCU beginning July 1, 2026, subject to the special condition. This letter serves as written notice and explanation of OIG's determination to conditionally recertify the Unit with a special condition (42 CFR § 1007.17(d)(1)).

### **Statutory and Regulatory Background**

The Social Security Act (SSA) requires each State to demonstrate that it operates a MFCU that effectively carries out its statutory functions and responsibilities (SSA §§ 1902(a)(61) and 1903(q)). OIG, through delegations from the Secretary of Health and Human Services, is responsible for annually recertifying and funding each Unit (SSA §§ 1903(a)(6), (b)(3), and (q); 44 Fed. Reg. 47809, 47811 (Aug. 15, 1979)). To continue receiving Federal funding, a Unit must be certified. Under SSA §§ 1903(a)(6) and (q) and 42 CFR § 1007.19(d)(1), Federal funding is allowable only if a Unit has been certified and recertified annually by OIG.

OIG may approve or deny a Unit's annual recertification application and must provide written explanation for denials (42 CFR § 1007.17(d)(2)). When making recertification determinations, OIG evaluates whether the Unit has demonstrated that it effectively carries out the functions and requirements described in SSA § 1903(q), as implemented by 42 CFR part 1007. In making these determinations, OIG reviews the information described in 42 CFR §§ 1007.17(a) and (b) and considers the factors in 42 CFR § 1007.17(c).

OIG may impose special conditions or restrictions and may require corrective action, as provided in 2 CFR § 200.208, before approving a reapplication for recertification (42 CFR § 1007.17(d)(1)).

### **Basis for Conditionally Recertifying With a Special Condition**

OIG conditionally recertifies the Unit subject to a special condition. OIG evaluated whether the Unit demonstrated that it effectively carries out its statutory functions and responsibilities as required by SSA §§ 1902(a)(61) and 1903(q) and implemented in 42 CFR part 1007. OIG considered the following factors and information and determined the Unit did not always adhere to the MFCU performance standards.

### **Findings Under Each of the Five Certification Factors in 1007.17(c)(1)-(5)**

1. Compliance With Regulations (42 CFR § 1007.17(c)(1)): The South Dakota MFCU generally complied with applicable laws and regulations.

2. Compliance With Policy Transmittals (42 CFR § 1007.17(c)(2)): The South Dakota MFCU generally complied with OIG policy transmittals.

3. Adherence to Performance Standards (42 CFR § 1007.17(c)(3)): OIG has determined that the South Dakota MFCU is not adhering to the MFCU Performance Standards as published in the *Federal Register* (89 Fed. Reg. 76431, September 2024). OIG assesses a Unit's adherence to all performance standards when assessing recertification of MFCUs. To explain the results of that assessment, OIG provides the following information as examples of the Unit's adherence under four of those performance standards.

- Performance Standard 2—Staffing:

The South Dakota MFCU employs a total number of professional staff commensurate with the State's total Medicaid program expenditures. The MFCU employed nine of its nine approved staff positions at the end of FY 2025. OIG's analysis predicts a staff of eight based on South Dakota Medicaid expenditures of \$1.86 billion annually.

- Performance Standard 4—Referrals:

The South Dakota MFCU receives a low number of referrals from the State Medicaid Program Integrity Unit (PIU). In FY 2025, the MFCU reported that it received two referrals from the PIU, which was similar to prior years (four in FY 2024, six in FY 2023, zero in FY 2022, one in FY 2021, and zero in FY 2020).

The PIU and the South Dakota MFCU both report a positive working relationship that includes regular meetings and information sharing. However, when compared to the number of fraud cases that the MFCU opened in 1 year, the PIU referrals are a small percentage. The Unit reported opening 62 fraud cases in total in FY 2025. However, for most MFCUs, referrals from the State Medicaid agency make up a larger percentage of their total referrals and open investigations.

For the South Dakota MFCU, these low referral numbers indicate that there is an opportunity to assess its referral relationship with the PIU and potentially increase its referrals. The Unit reported having good relationships with other State agencies, professional associations, and other entities that may serve as useful referral sources, but not necessarily in lieu of the State Medicaid PIU.

- Performance Standard 5—Case Progression:

The South Dakota MFCU is effectively managing its case progression. The Unit conducts quarterly case file reviews. The Unit reported that only 1 percent (1 of 103) of its cases have been open for more than 3 years.

- Performance Standard 8—Cooperation:

The Unit has an excellent relationship with OIG's Office of Investigations (OI). In the Unit's recertification information, OI reported five open joint investigations with the South Dakota MFCU, is in contact weekly with the Unit, and has regular meetings.

4. Effectiveness Investigating and Prosecuting Fraud (42 CFR § 1007.17(c)(4)): The South Dakota MFCU is not always using its resources effectively to investigate cases of possible fraud in the administration of the Medicaid program, the provision of medical assistance, or the activities of providers of medical assistance under the State Medicaid plan, or to prosecute cases or cooperate with the prosecuting authorities. Among the factors that OIG has considered in assessing the Unit's effectiveness in investigating and prosecuting fraud are the Unit's case

outcomes as reported in the annual statistical report and how the Unit compares with similar-sized peers.

The South Dakota MFCU's fraud convictions increased from FY 2024 to FY 2025, from three to six convictions. In FY 2025, the Unit reported opening 62 fraud investigations, with 1 fraud indictment. From FY 2023 to FY 2025, the Unit reported nine total fraud convictions and ranked sixth out of 12 similar-sized MFCUs. The Unit also had two civil judgments or settlements in FY 2025 and had total criminal and civil recoveries of \$225,578. The Unit's outcomes indicate that it is improving its effectiveness in fighting fraud, for example, by doubling the number of convictions in FY 2025. However, as discussed above, there may be other opportunities to improve outcomes by increasing the fraud referrals it receives from the PIU.

5. Effectiveness Investigating and Prosecuting Patient Abuse and Neglect (42 CFR § 1007.17(c)(5)): The South Dakota MFCU is using its resources effectively to review and investigate, refer for investigation or prosecution, or criminally prosecute complaints alleging abuse or neglect of patients or residents in health care facilities receiving payments under the State Medicaid plan and, at the Unit's option, in board and care facilities. Among the factors that OIG has considered in assessing the Unit's effectiveness in investigating and prosecuting patient abuse and neglect are the Unit's case outcomes as reported in the annual statistical report and how the Unit compares with similar-sized MFCUs.

The South Dakota MFCU's convictions relating to patient abuse and neglect increased from FY 2024 to FY 2025, from five to eight convictions. In FY 2025, the MFCU reported opening 45 investigations relating to patient abuse and neglect and secured 5 indictments. From FY 2023 to FY 2025, the MFCU reported 14 convictions in total related to patient abuse and neglect and ranked second out of 12 similar-sized MFCUs.

#### **Effect of Conditional Recertification With a Special Condition**

OIG is granting conditional recertification subject to a special condition. To remove the special condition and be recertified, the Unit must take corrective actions as detailed in the Enclosure.

Upon successful completion of the corrective actions, OIG will remove the special condition. Should the South Dakota MFCU fail to take the required action, OIG may pursue additional certification actions or financial remedies, as necessary (see 42 CFR § 1007.17 and 2 CFR § 200.339).

If you have any questions regarding your Unit's conditional recertification, please call me at (202) 619-3148.

Sincerely,

A handwritten signature in blue ink that reads "T. March Bell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

T. March Bell  
Inspector General

Enclosure

**Enclosure: Special Condition for Corrective Action**

OIG imposes the following special condition on the South Dakota MFCU Federal grant. The South Dakota MFCU must take corrective actions to come into compliance with the MFCU performance standards (42 CFR § 1007.17(c)(3)). Upon OIG's determination that the Unit has taken the actions necessary, OIG will remove the special condition and recertify the Unit. Below is an initial corrective action. OIG will continue to work with the South Dakota MFCU to identify all actions necessary for it to meet its obligations under the law.

Referrals

The Unit must take steps to address the referral deficiencies described in this letter. Specifically, within 30 days of the date of this letter, the Unit must provide to OIG a root cause analysis of the low referrals and an action plan that details the steps the Unit will take to address the quantity and quality of its referrals. The action plan must specify the referral entities with which the Unit will schedule regular meetings (at least monthly) and a description and targeted timeline for providing training or other information to the specified referral entities to encourage referrals. In addition, within 6 months of the date of this letter, the Unit must provide to OIG a progress report that details the steps the Unit has taken in accordance with its action plan and the number/percentage increase in referrals from each referral source over the last 6-month period. OIG may provide feedback to the Unit on the action plan and progress report, as necessary. To remove the special condition, the Unit must do more than merely submit a plan for improvement and a progress report; it must also demonstrate significant progress toward addressing the referral deficiencies described in this letter.