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September 1, 2011

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Representative Nelson Dollar
Co-Chairs, Appropriations Subcommittees on Health and Human Services

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5A; Report on Activities of Medicaid Fraud Control Unit

Dear Members:

Newly enacted G.S. §114-2.5A requires the Attorney General to report by September 1 on the activities of the Medicaid Fraud Control Unit ("Medicaid Investigations Unit") of the Department of Justice during the previous fiscal year to the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and the Fiscal Research Division of the Legislative Services Office. Pursuant to that statute, I have enclosed the Medicaid Investigations Unit Activities Report for July 1, 2010 through June 30, 2011.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,

A handwritten signature in black ink that reads "Kristi Hyman". The signature is written in a cursive style and is followed by a long horizontal line.

Kristi Hyman
Chief of Staff

cc: Kristine Leggett, NCGA Fiscal Research Division
Nels Roseland, NCDOJ, Deputy Chief of Staff

TO THE
NORTH CAROLINA GENERAL ASSEMBLY

BY THE
MEDICAID INVESTIGATIONS UNIT
OF THE
NORTH CAROLINA DEPARTMENT OF JUSTICE

SUBMITTED
September 1, 2011

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I. INTRODUCTION

The Medicaid Fraud Control Unit, which in North Carolina is the Medicaid Investigations Unit (“MIU”) of the North Carolina Attorney General’s Office, is required to prepare and deliver this report pursuant to N.C.G.S. § 114-2.5A, reporting its activities to the General Assembly. Because the MIU receives 75% of its funds from a Federal source, the MIU is required by its Federal funding source to maintain statistics and report its activities based on the Federal fiscal year, which is October 1 through September 30. The General Assembly requires that this report present statistics based on the state fiscal year of July 1 through June 30. Pursuant to G.S. § 1-617, the General Assembly requires a report on qui tam cases for the calendar year of January 1 through December 31. While these three reports overlap, the final statistics in these three reports will vary because they each cover different time periods.

G.S. § 114-2.5A requires the report on the MIU’s activities during the previous fiscal year to include specific information as follows:

Information Required

- (1) The number of matters reported to the MIU.
- (2) The number of cases investigated.
- (3) The number of criminal convictions and civil settlements.
- (4) The total amount of funds recovered in each case.
- (5) The allocation of recovered funds in each case to
 - (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the N.C. Department of Justice; and (v) other victims.

II. OVERVIEW

The MIU is proud to present this report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and to the Fiscal Research Division of the Legislative Services Office. The report covers the activities of the MIU for the State Fiscal Year 2010-2011 (“FY 10/11”), covering July 1, 2010 through June 30, 2011.

The MIU has worked hard to combat fraud and abuse in the Medicaid Program during its 31 year history. Since the program’s inception, more than 400 providers have been convicted of crimes relating to fraud and abuse and numerous providers have entered into civil settlements, leading to recoveries for the State of \$387 million from fines, restitution, interest, penalties, and costs.

The MIU works with the North Carolina Department of Health and Human Services (“NC DHHS”), the state agency that administers the North Carolina Medicaid Program, and with other law enforcement and prosecutorial agencies. Throughout FY 10/11, the MIU conducted investigations of fraud and patient abuse cases jointly with a number of law enforcement and investigatory agencies, including the United States Department of Health and Human Services Office of Inspector General (OIG); Office of Investigations District Office in Greensboro, N.C.; the Federal Bureau of Investigation (FBI); the Defense Criminal Investigative Service; the Drug Enforcement Administration (DEA); the North Carolina Department of Insurance (NC DOI); the Internal Revenue Service (IRS); and the United States Department of Justice (US DOJ), along with local law enforcement agencies, and integrity MIUs within private insurance companies. These relationships serve as a valuable resource for future case referrals.

In the spring of 1994, through the efforts of the MIU and the FBI, a Federal-State Health Care/Insurance Fraud Information Sharing Task Force began its operation. Charlie Hobgood, Director of the MIU, serves as co-chair of the Group. In addition to the MIU and the FBI, agencies with representatives on the Task Force include the OIG, IRS, Postal Inspectors, Defense Criminal Investigative Service, United States Department of Labor, Food and Drug Administration, NC DOI and the DEA. Each United States Attorney's Office has assigned criminal and civil attorneys to work with the Task Force. Also participating are representatives from the Program Integrity Units for many governmental and private health care programs. The Task Force meets quarterly for discussions of ongoing cases, information sharing and training. The MIU also participates in the North Carolina Medicare Medicaid (MediMedi) Project. Director Charlie Hobgood is a member of the North Carolina MediMedi Steering Committee.

As in past years, Medicaid Fraud Control Units from other states seek advice and guidance in the areas of administration, investigation, and prosecution from the MIU. The MIU strives to maintain and build on this reputation and to assist other units directly and through participation with the National Association of Medicaid Fraud Control Units (NAMFCU). During FY 10/11, Director Charlie Hobgood served as Vice President of the NAMFCU and Chair of the NAMFCU Finance Committee. Director Hobgood also chaired a number of NAMFCU work groups. MIU Criminal Chief Doug Thoren served on the NAMFCU Training Committee.

The MIU continues to be actively involved in global cases being coordinated through NAMFCU with the US DOJ and other federal and state agencies. Director Hobgood, Deputy Director Pete Krupp, Civil Chief Eddie Kirby, and Financial Investigator David Haire served on NAMFCU global teams appointed by NAMFCU's Global Case Committee.

The MIU has worked to foster joint federal and state investigations and prosecutions of providers. The United States Attorney's Offices for the Eastern, Middle, and Western Districts have appointed a number of MIU attorneys as Special Assistant United States Attorneys (SAUSA) to pursue criminal and civil Medicaid fraud matters. The MIU attorneys reap many benefits from this appointment. MIU attorneys are collaborating with on substantial criminal

and civil fraud cases against a variety of providers that began as investigations conducted by the MIU. We will continue to foster relations with these offices in the future.

The MIU receives information from the North Carolina Division of Health Service Regulation (NC DHSR), the primary agency designated to receive abuse and neglect complaints from or involving long-term care providers in North Carolina. We are working with DHSR to improve case referral procedures. We anticipate the relationship with this agency will continue, which will provide the MIU with a valuable source of referrals.

The MIU, working with other agencies, was instrumental in developing a course through the North Carolina Justice Academy entitled, "Investigating Crimes Against the Elderly and Disabled." The course provides 24 hours of instruction and has been attended by approximately 200 law enforcement officers. This course is now being offered nationally and has been attended by officers from South Carolina and Georgia. MIU Criminal Chief Doug Thoren is responsible for six hours of instruction on the legal issues surrounding abuse investigations.

During FY 10/11 the MIU continued to provide a good training program for its staff. This training included sending staff to the NAMFCU Introduction to Medicaid Fraud Training Program; the NAMFCU Annual Training Conference; the NAMFCU Global Case Training; the ABA/NAMFCU National Institute on Health Care Fraud Conference; and various courses relevant to fraud and abuse investigations and the use of computer programs in investigations offered by the Justice Academy of the NC DOJ, State Personnel Development Center, and Office of State Personnel.

The North Carolina General Assembly (NCGA) enacted the North Carolina False Claims Act, G.S. §§ 1-605 through 1-618, which established a state qui tam law that went into effect on January 1, 2010. Since going into effect, this law has improved the MIU's ability to prosecute and investigate Medicaid provider fraud and abuse. Since the False Claims Act became effective, the MIU received information from and filings by whistleblowers alleging approximately 40 cases of Medicaid fraud and abuse.

In March 2011, the Office of Inspector General of the United States Department of Health and Human determined that all state qui tam laws failed to comply with the Deficit Reduction Act (DRA) because they did not contain the latest revisions to the Federal False Claims Act. If the Inspector General certifies that a state false claims act is compliant with DRA, a state is allowed to retain an additional ten percent of the Federal share of recoveries. The MIU has asked the Inspector General for a grace period and reconsideration. Depending on the Inspector General's response, the NCGA could consider an amendment of the North Carolina False Claims Act as necessary in order to comply with DRA.

At the beginning of the fiscal year the MIU had 34 positions. The legislature provided funding for an additional 25 positions in the state budget. During the past fiscal year, a

substantial amount of the time, energy, thought, and resources of the MIU went into developing an expanded office organizational structure, developing new positions and position descriptions, working with the NC DOJ Human Resources and Financial Sections and Office of State Personnel to budget and post new positions, reviewing applications, conducting numerous review boards, interviewing applicants, and hiring the best staff possible. The MIU began this process by arranging for the State Personnel Development Center and the NC DOJ Human Resources Section to provide MIU with specialized and in-depth training on hiring quality staff. The MIU then carefully developed a new organizational structure centered on the development of teams. Rather than simply hiring more of the same types of positions, the MIU created positions new to the MIU including an MIU Criminal Chief, MIU Civil Chief, Office Manager, and Criminal Intelligence Analysts. The MIU divided the Unit into a Criminal Division and Civil Division in order to appropriately give separate focus to and division of its criminal and civil functions. In addition, recognizing the increase in the size of the Unit, the Attorney General placed the MIU in a newly created Medicaid Investigations Division and appointed Senior Deputy Robin Pendergraft to head the Division. The MIU is pleased that it was able to successfully attract and hire a group of highly qualified and talented employees who have diverse but complementary backgrounds and who have knowledge, skill, and experience that will be valuable to the mission of the Unit.

The MIU has the full support and confidence of Attorney General Roy Cooper. Attorney General Cooper is firmly committed to the detection and prosecution of fraud and abuse by providers in the Medicaid Program. He has also been a strong advocate for enforcement efforts to protect the elderly from physical or financial abuse. Attorney General Cooper has worked to enhance cooperation between government agencies in fighting the health care fraud problem and supports the MIU's participation in the federal-state Task Force. Unquestionably, the support and assistance provided by Attorney General Cooper has significantly contributed to the overall success of the MIU during FY 10/11.

In summary, the MIU's activities over the past year in both the criminal and non-criminal areas have proven highly productive. The successful investigation and prosecution of a variety of Medicaid providers during FY 10/11 have served to maintain and enhance the reputation as an effective and professional investigative MIU that vigorously, but fairly, pursues and prosecutes fraud and abuse.

III. INFORMATION REQUIRED ON MIU ACTIVITIES

1. Matters reported to the MIU.

There were 298 referrals made to the MIU during FY 10/11. The referrals came from varied sources. The most valuable referrals came from the Program Integrity Section of the Division of Medical Assistance of the North Carolina DHHS. Referrals also came from citizens, health care professionals, law enforcement, and other governmental agencies including the

Division of Health Service Regulation. Referrals also came from federal governmental agencies and contractors including the DHHS OIG, Office of Investigations, and U.S. Department of Justice, U.S. Attorney's Office. Referrals were also received from the NAMFCU and qui tam plaintiffs.

Of the 298 new referrals, plus 16 referrals that were pending at the beginning of the fiscal year, the MIU opened new case files on 171 matters. Seven were still under preliminary review at the end of the fiscal year. The remaining 136 were either referred to another agency for review or declined for insufficient evidence of a violation. In many instances it is appropriate to refer a matter to the North Carolina Division of Medical Assistance (NC DMA) for further review or administrative action. NC DMA can compare the allegation to its history of the provider and conduct billing analysis and reviews to determine whether further investigation is appropriate. DMA may then refer the matter back to the MIU with the additional data and analysis. In that case, the MIU can reconsider whether to open an investigation. Alternatively, DMA may decide to apply one of the administrative remedies or sanctions it has at its disposal. It is also possible that the matter could be referred to another appropriate investigatory agency for action.

A number of referrals were declined on the grounds that the referral did not sufficiently allege Medicaid provider fraud. Some of the allegations were not substantiated by a preliminary review. In some instances the potential for successful criminal prosecution or dollar amount was low. Some of the allegations did not pertain to Medicaid provider fraud but rather pertained to Medicaid recipient fraud. The MIU's federal grant does not allow the MIU to use funding to investigate Medicaid recipient fraud. Therefore, the MIU refers recipient fraud allegations to the Division of Medical Assistance or the county Department of Social Services. Allegations of Medicaid recipient fraud should be referred to the Recipient Services Section of the Division of Medical Assistance, 919-855- 4000, or the Fraud Section of the local county Department of Social Services.

Medicaid fraud investigations are complex and labor intensive. The consequences of a fraud conviction on a provider can be severe. Therefore, the MIU takes great care to ensure that allegations are substantiated before proceeding with criminal charges or civil actions.

2. The number of cases investigated.

During FY 10/11 the MIU staff actively investigated 374 cases. Due to the length of time required to properly investigate a case, a number of these cases were referred and/or opened prior to FY 10/11. The subjects of current investigations include community support providers; personal care service providers; mental health facilities; physicians; dentists; psychiatrists; pharmacies; pharmaceutical manufacturers; durable medical equipment suppliers; transportation providers; home health care providers and aides; nursing facilities; and hospitals. The MIU is also investigating care givers accused of patient physical abuse and neglect at nursing facilities and hospitals, and the theft of recipients personal funds.

3. Criminal Convictions and Civil Settlements.

a. Criminal Convictions

During FY 10/11, the MIU successfully convicted 17 providers. These criminal convictions resulted in the recovery of \$1,940,083.48 in restitution, fines, courts costs, supervision fees, and community services fees. Details of these convictions are set forth in Section IV of this report.

FY 10/11 was a year of significant accomplishments. Of particular note was the criminal conviction of Sandra Elliott, the owner of Learning Links, a mental health provider. This matter was investigated jointly by the MIU and Defense Criminal Investigative Service (“DCIS”). The investigation revealed that Elliott billed Tricare and Medicaid for mental health services not rendered, that records were fabricated or forged, and that services that were provided were performed by unlicensed employees. Elliott pled guilty in United States District Court, Eastern District of North Carolina, to healthcare fraud was sentenced to 120 months active imprisonment. She was ordered to pay restitution of \$1.1 million to Tricare and more than \$700,000 to the North Carolina Medicaid Program.

b. Civil Recoveries

During this period the MIU obtained 16 civil settlements and recovered \$46,854,308.83 in damages, interest, civil penalties, and costs. Of significance was a civil settlement agreement executed between Astrazeneca and the state of North Carolina in settlement of allegations that Astrazeneca promoted the sale and use of the drug Seroquel for unapproved uses and made illegal payments to physicians to cause physicians to prescribe Seroquel for uses that were not medically acceptable. Under the terms of North Carolina’s settlement, the State of North Carolina recovered \$13.8 million. Details of civil recoveries are provided in Section V of this report.

4. The total amount of funds recovered in each case.

Together, these 17 criminal convictions and 16 civil recoveries represent a total of \$48,794,392.31 recovered for the State of North Carolina. A case by case breakdown of the amounts recovered in each case and allocation of recovered funds is shown in Table A below.

5. The allocation of recovered funds in each case to (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the of Justice; and (v) other victims.

The allocation of recovered funds in each case is case is shown in Table A as follows:

Table A Funds Recovered						
Name	Federal Government	NC Medicaid	Civil Penalty & Forfeiture Fund	NC DOJ Collection	Other	Total
Learning Links	457,242.55	255,306.23			1,172,747.62	1,885,296.40
Edward Pressley	15,668.15	8,691.54			5,130.00	29,489.69
Kinikia Redmond					6,671.21	6,671.21
Latasha Holmes					3,250.95	3,250.95
Peggy Royster					3,165.60	3,165.60
Shameka Atkinson					2,297.13	2,297.13
Kendra Holloway	997.95	554.55			548.00	2,100.50
Brookside Rehabilitation & Care/Melissa Ramsey					2,048.50	2,048.50
Sherry Cozart	756.82	416.18			870.00	2,043.00
Jeanette McNeil					952.25	952.25
Tonya Turner					676.50	676.50
Fred Bellamy					646.00	646.00
Rashona Barrett					608.75	608.75
Reginald Thompson					285.00	285.00
Cheryl Lenore Hopkins					238.00	238.00
Janet Wilson					176.00	176.00
Ian Cole Jacobs					138.00	138.00
Total Criminal Recoveries	474,665.47	264,968.50	0.00	0.00	1,200,449.51	1,940,083.48
Astra Zenecca (Seroquel)	8,875,546.67	2,403,165.51	2,353,548.12	209,958.22		13,842,218.52
Glaxo Smith Kline	7,551,137.08	2,087,716.13	2,026,641.01	180,795.10		11,846,289.32
Novartis (Trileptal, Diovan, Zelnorm, Sandostatin)	4,280,223.63	678,717.10	1,206,689.80	83,187.72		6,248,818.25
Forest Labs, Inc. & Forest Pharmaceuticals (Celexa, Lexapro, Levothroid)	3,288,905.86	982,633.11	1,005,701.68	85,236.98		5,362,477.63
Ortho-McNeil-Janssen Pharmaceuticals, Inc. (Topamax)	1,263,457.05	288,198.74	532,589.98	35,633.96		2,119,879.73
Moore Ambulance	1,854,629.66	139,163.03		6,207.31		2,000,000.00
Schwarz Pharma, Inc. (Deponit & Hyoscyamine Sulfate)	878,107.75	390,502.03	152,751.90	23,999.37		1,445,361.05
Allergan (Botox)	917,178.51	206,362.16	196,967.15	17,571.28		1,338,079.10
EMD SERONO (REBIF)	420,978.22	150,847.04	173,391.03	14,047.54		759,263.83
Alpharma (Kadian)	389,474.80	105,454.05	105,837.08	6,301.01		607,066.94
Intermune (Actimmune)	350,162.23	211,216.82		8,361.00		569,740.05
Kos Pharmaceuticals, Inc (Niaspan & Advicor)	259,620.11	86,327.43	62,900.11	6,578.27		415,425.92
Novartis (Tobi)	110,095.37	30,360.75	29,210.58	2,605.85		172,272.55
Coastline Care, Inc.	92,722.00	6,967.23	0.00	310.77		100,000.00
Orphan/Jazz (Xyrem)	0.00	20,670.80	0.00	229.84		20,900.64
Cochlear Americas	0.00	6,237.10	0.00	278.20		6,515.30
Total Civil Recoveries	30,532,238.94	7,794,539.03	7,846,228.44	681,302.42	0.00	46,854,308.83
Total Recoveries	31,006,904.41	8,059,507.53	7,846,228.44	681,302.42	1,200,449.51	48,794,392.31

IV. CRIMINAL CONVICTIONS

LEARNING LINKS (U.S. v. SANDRA ELLIOTT)

Sandra Elliott was the Owner of Learning Links, a Mental Health Provider located in Fayetteville and Dunn, North Carolina. This matter was referred to the MIU by the Department of Defence, Defence Criminal Investigative Service (“DCIS”).

A joint investigation by DCIS and the MIU revealed that Learning Links staff and contract employees at Elliott’s direction billed Tricare and Medicaid for services not rendered, records were fabricated or forged and patients received treatment from unlicensed employees.

On January 15, 2010, Elliott pled guilty in U.S. District Court for the Eastern District of North Carolina to Healthcare Fraud and Aiding and Abetting. On September 10, 2010, Elliott was sentenced to 120 months imprisonment. Upon release Elliott will be on supervised release for 3 years. Elliott was also ordered to pay a \$100 assessment fee and restitution of \$1,885,196.40. Tricare will receive \$1,172,647.62 and Medicaid will receive \$712,548.78.

STATE v. EDWARD PRESSLEY

Edward Pressley was employed with Value Options, which is a contractor of the state Medicaid Program. Value Options approves requests for community support services. This matter was referred to the MIU by Value Options.

An MIU investigation revealed that Pressley was approving requests for community support services submitted by a Medicaid provider when he was not authorized to do so.

On September 28, 2010, Pressley pled guilty to five (5) counts of Accessing Computers to defraud and one (1) count of Conspiracy. He was sentenced by the Wake County Superior court to ten (10) to twelve (12) months suspended, twenty-four (24) months of supervised probation, and ordered to pay restitution of \$24,359.69, \$130 in court costs, and a \$5,000 fine.

STATE v. KNIKIKIA REDMOND

Knikikia Redmond was employed as a Home Health Aide by Eve’s Home Care, LLC, a Medicaid Provider located in Raleigh, North Carolina. This matter was referred to the MIU by a citizen.

An MIU investigation revealed that Knikikia Redmond submitted billing information for personal care services that were not rendered to recipient. The investigation further revealed that Redmond created payroll checks for other Eve’s Home Care employees that she then

endorsed without authorization and deposited into her own personal bank account. The conduct covered the period of July 2006 to November 2007.

On March 4, 2011, Redmond pled guilty to Obtaining Property by False Pretenses and Attempted Medical Assistance Provider Fraud. Wake County Superior Court sentenced Redmond to six (6) months of incarceration, twenty-four (24) months of a suspended sentence, twenty-four (24) months of supervised probation, and ordered to pay restitution of \$6,671.21

STATE v. LATASHA HOLMES

Latasha Holmes was employed as a Home Health Aide by Personal Healthcare, Inc., a Medicaid Provider in Zebulon, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Latasha Holmes submitted falsified hours and signatures on Medicaid billable timesheets. The conduct covered the period of September 2005 through July 2006.

On July 26, 2010, Latasha Holmes pled guilty to Attempted Medical Assistance Provider Fraud. The Franklin County District Court sentenced Holmes to 45 days in custody of the NC Department of Corrections. The Court suspended the execution of the sentence and placed Holmes on twelve (12) months supervised probation and ordered Holmes to pay \$176 in court costs, a \$50 fee, \$600 in attorney fees and \$2,424.95 in restitution.

STATE v. PEGGY ELIZABETH ROYSTER

Peggy Royster was employed as a Nurse Aide by Maxim Health Care Services, a Medicaid Provider located in Durham, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Peggy Royster billed for personal care services that were not rendered. The conduct covered the period of August 2006 to February 2007.

On April 21, 2011, Peggy Royster pled guilty to four (4) counts of misdemeanor Attempted Medical Assistance Provider Fraud. Person County District Court sentenced Royster to a forty-five (45) day suspended sentence, eighteen (18) months of supervised probation, was ordered to pay \$2,805.60 in restitution to Maxim Health Care Services and \$300 in attorney's fees and \$60 in court costs.

STATE v. SHAMEKA ATKINSON

Shameka Atkinson was employed as a Home Health Aide by A Small Miracle, Inc., a Medicaid Provider located in Goldsboro, North Carolina. This matter was referred to the MIU by a citizen.

An MIU investigation revealed that Shameka Atkinson did not provide CAP services to the CAP recipient. The investigation also found that Atkinson was employed by Preferred Home Care, Inc., of Selma, North Carolina, as a CNA providing in-home services to a different Medicaid recipient. The investigation also found that Atkinson was employed by Johnson Memorial Hospital, of Smithfield, North Carolina, as a Nursing Assistant. On various days, Atkinson recorded working for two providers during the same hours. On two days, Atkinson recorded working for all three providers during the same hours. The conduct covered the period of November 2008 to January 2009.

On September 30, 2010, Shameka Atkinson pled guilty to one count of Attempted Medical Provider Fraud. Wayne County District Court sentenced Atkinson to forty-five (45) days of a suspended sentence, twelve (12) months of supervised probation, and ordered Atkinson to pay \$2,171.13 in restitution (\$1,508.13 to A Small Miracle, Inc. and \$663 to Preferred Home Care, Inc.), \$126 in court costs, submit to random drug screenings, submit to warrantless searches and not to use, possess or control any illegal drug or controlled substance.

STATE v. KENDRA HOLLOWAY

Kendra Holloway was employed as a Home Health Aide by Allegiance Home Care, Inc, a Medicaid Provider in Charlotte, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Kendra Holloway did not provide personal care services to the recipient. The conduct covered the period of March 2007 to January 2008.

On October 25, 2010, Kendra Holloway pled guilty to one count of attempted Medicaid Provider Fraud. Rowan County District Court sentenced Holloway to forty-five (45) days of a suspended sentence, twenty-four (24) months of supervised probation, and ordered Holloway to pay \$1,552.50 in restitution, \$163 in court costs, \$50 in fines, \$275 in attorney's fees and \$60 in miscellaneous-department fees.

STATE v. MELISSA RAMSEY

Melissa Ramsey was employed as a Certified Nurse Aide by Brookside Rehabilitation and Care, a Medicaid Provider in Burnsville, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Melissa Ramsey struck two handicapped persons by hitting them the face with her fist. The conduct occurred on July 7, 2010.

On June 2, 2011, Melissa Ramsey pled guilty to two (2) counts of Simple Assault on a Handicapped Person. Yancey County Superior Court sentenced Ramsey to seventy-five (75) days of incarceration, a consecutive seventy-five (75) days of a suspended sentence, twelve (12) months of supervised probation, and ordered Ramsey to pay \$273.50 in court costs, \$200 fine and \$1,575 in attorney's fees.

STATE v. SHERRY COZART

Sherry Cozart was employed as a Home Health Aide by St. Mary's Home Care Service, Inc., a Medicaid Provider in Henderson, North Carolina. This matter was referred to the MIU by the Department of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Sherry Cozart submitted timesheets to be used in billing the Medicaid Program which indicated she had provided personal care services when in fact, no services were provided. The conduct covered the period of November 24, 2006 through January 15, 2007.

On April 12, 2010, Sherry Cozart pled guilty to one (1) count of misdemeanor Attempted Medical Provider Fraud. The Granville County District Court sentenced Cozart to forty-five (45) days, suspended for twelve (12) months of supervised probation, and ordered Cozart to pay \$1,173 in restitution and \$870 in court costs.

STATE v. JEANETTE MCNEILL

Jeanette McNeill was employed as a Nurse Aide by Carolina Hearts Home Care, a Medicaid provider in Laurinburg, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Jeanette McNeill submitted timesheets indicating she had provided Personal Care Services to a Medicaid recipient when, in fact, she had not. The conduct covered the period of May 2008 through August 2008.

On August 25, 2010, Jeanette McNeil pled guilty to Attempted Medical Assistance Provider Fraud. Scotland County District Court sentenced McNeill to forty-five (45) days, eighteen (18) months of supervised probation and ordered McNeill to pay \$146 in court costs and \$806.25 in restitution.

STATE v. TONYA TURNER

Tonya Turner was employed as a nurse aide by Universal Healthcare, a Medicaid Provider in Rocky Mount, North Carolina. This matter was referred to the MIU by the Division of Medical Assistance, Program Integrity.

An MIU investigation revealed that Tonya Turner submitted timesheets for providing personal care services to a Medicaid recipient when, in fact, she did not provide those services.

On August 24, 2010, Tonya Turner pled guilty to Obtaining Property by False Pretenses. Nash County Superior Court sentenced Turner to nine (9) to eleven (11) months in the custody of the NC Department of Corrections and ordered Turner to pay \$676.50 in court costs.

STATE v. FREDERICK BELLAMY

Frederick Bellamy was employed as a Nurse Aide by Cherry Hospital in Goldsboro, North Carolina. This matter was referred to the MIU by the N.C. Department of Health and Human Services.

An MIU investigation revealed that Frederick Bellamy was found to have photographs of naked patients on his personal cell phone. The incident occurred on November 4, 2008.

On June 14, 2010, Frederick Bellamy pled guilty to Disclosure of Confidential Patient Information. Granville County Superior Court ordered Bellamy to pay a \$500 fine and \$146 in court costs.

STATE v. RASHONA BARRETT

Rashona Barrett was employed as a Home Health Aide by Touched By Angels, a Medicaid provider in Winston-Salem, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Rashona Barrett misappropriated a recipient's property by stealing and cashing several blank checks. The conduct covered the period of September 13, 2006 through November 20, 2006.

On July 16, 2010, Rashona Barrett pled guilty to four (4) counts of misdemeanor attempted exploitation of an elder adult. The Forsyth County District Court sentenced Barrett to consecutive sentences of forty-five (45) days, suspended for eighteen (18) months of unsupervised probation, and ordered Barrett to perform twenty-four (24) hours of community service on each count and to pay a community service fee of \$225, \$93.75 in attorney fees, and \$290 in court costs.

STATE v. REGINALD THOMPSON

Reginald Thompson was employed as a Home Health Aide by DP Community Services, a Medicaid Provider in Siler City, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Reginald Thompson had only been in DP Community Services twice and never provided any services to clients while in the facility. The investigation also revealed that the clients' signatures on timesheets were forged. The conduct covered the period of October 2005 to September 2008.

On November 8, 2010, Reginald Thompson pled guilty to two counts of Medical Provider Fraud. Chatham County Superior Court sentenced Thompson to seven (7) to nine (9) months of incarceration, and ordered Thompson to pay \$225 in attorney's fees and \$60 in miscellaneous fees.

STATE v. CHERYL LENORE HOPKINS

Cheryl Lenore Hopkins was employed as a Nurse Aide by the O'Berry Center, a Medicaid provider in Goldsboro, North Carolina. This matter was referred to the MIU by the Cherry Hospital Police Department.

An MIU investigation revealed that Cheryl Lenore Hopkins assaulted a patient by striking him in the mouth, causing him to suffer lacerations and swelling to the mouth. The conduct occurred on September 7, 2010.

On February 11, 2011, Cheryl Lenore Hopkins pled guilty to one count of Simple Assault. Wayne County District Court sentenced Hopkins to fifteen (15) days of a suspended sentence, placed on unsupervised probation for twelve (12) months, and ordered to pay \$238 in fines and court costs.

STATE v. JANET WILSON

Janet Wilson was employed as the Business Manager by Meadowwood Nursing Center, a Medicaid provider in Gastonia, North Carolina. This matter was referred to the MIU by the Division of Health Service Regulation, Health Care Personnel Registry.

An MIU investigation revealed that Janet Wilson wrote checks to cash and to herself from the Residents' Trust Fund for her own use. The conduct covered the period of December 2005 through June 2006.

On July 6, 2010, Janet Wilson pled guilty to Misapplying and Commingling Patient Property. Gaston County District Court sentenced Wilson to forty-five (45) days, twenty-four (24) months of unsupervised probation, and ordered Wilson to pay a \$50 fine and \$126 in court costs.

STATE v. IAN COLE JACOBS

Ian Cole Jacobs was employed as a Medical Assistant by the O’Berry Center, a Medicaid provider in Goldsboro, North Carolina. This matter was referred to the MIU by the Cherry Hospital Police Department.

An MIU investigation revealed that Ian Cole Jacobs slapped a mentally handicapped Medicaid recipient on the head. The conduct occurred on December 27, 2010.

On March 4, 2011, Ian Cole Jacobs pled guilty to one count of Simple Assault. Wayne County District Court sentenced Jacobs to forty-five (45) days of a suspended sentence, and ordered Jacobs to pay \$138 in court costs.

V. CIVIL RECOVERIES

ASTRAZENECA (SEROQUEL)

AstraZeneca is a pharmaceutical manufacturer and distributor based in Wilmington, Delaware. It is an indirect subsidiary of AstraZeneca, PLC, which is based in the United Kingdom. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

It was alleged that between January 1, 2001 and December 31, 2006, AstraZeneca promoted the sale and use of Seroquel for certain uses that the Food and Drug Administration had not approved. The settlement resolves a government investigation into promotional activities undertaken by AstraZeneca that were directed not only to psychiatrists but also to primary care physicians and other health care professionals for unapproved uses in the treatment of medical conditions such as aggression, Alzheimer’s disorder, anger management, anxiety, attention deficit hyperactivity disorder, dementia and sleeplessness.

In implementing its marketing campaign, AstraZeneca was also alleged to have made illegal payments to physicians, paying their way to travel to resort locations to “advise” AstraZeneca about marketing messages for unapproved uses, to serve as authors of articles written by AstraZeneca and its agents, and to conduct studies for unapproved uses of Seroquel. The settlement resolves claims that, as a result of these promotional activities, AstraZeneca caused physicians to prescribe Seroquel for children, adolescents and dementia patients in long

term care facilities, which are uses that were not medically accepted indications for which state Medicaid programs would approve reimbursement.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$13,842,218.52. Of that amount, the federal government received \$8,875,546.67 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$4,966,671.85. Of this amount, \$2,403,165.51 was paid to the North Carolina Medicaid Program as restitution and interest, \$2,353,548.12 was paid to the Civil Penalty Forfeiture Fund for the support of public schools, and \$209,958.22 was paid to the NC DOJ for costs of collection and investigation.

GLAXOSMITHKLINE, LLC

GlaxoSmithKline (GSK) is a major international pharmaceutical manufacturer whose American operation is incorporated in Delaware, with its principal place of business located in Pennsylvania and North Carolina. SB Pharmco Puerto Rico, Inc. (SB Pharmco) is a corporation organized under the laws of the Commonwealth of Puerto Rico with a principal place of business in Cidra, Puerto Rico. SB Pharmco is an indirect subsidiary of GSK's United Kingdom based parent corporation, GlaxoSmithKline, Plc. GSK manufactured, distributed and sold pharmaceutical products in the United States, including drug products sold under the trade names of Paxil CR, Advandamet, Kytril, and Bactroban that were manufactured at SB Pharmco's Cidra, Puerto Rico facility. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

The government alleged that GSK's conduct – pervasive and systematic failure to maintain and operate its Cidra, Puerto Rico facility in accordance with FDA mandated standards – caused false claims for the four subject drugs (Avandamet, Paxil CR, Kytril and Bactroban) to be submitted to the State Medicaid programs and other federally funded health care programs. The government's investigation confirmed that from January 1, 2001 through April 1, 2005, there were significant problems with the purity and/or potency of Avandamet, Paxil CR, Kytril and Bactroban manufactured at the Cidra plant and that federally funded health care programs, including Medicaid, paid substantial sums in reimbursement for these products when they did not meet the standards required by the United States Food and Drug Administration.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$11,846,289.32. Of that amount, the federal government received \$7,551,137.08 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$4,295,152.24. The North Carolina Medicaid Program received \$2,087,716.13 as restitution and interest, \$2,026,641.01 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$180,795.10 went to the NC DOJ for costs of collection and investigation.

NOVARTIS (TRILEPTAL)

Novartis Pharmaceuticals Corporation (Novartis) is a Delaware corporation, headquartered in East Hanover, New Jersey. Novartis manufactured, distributed, marketed, promoted and sold pharmaceutical products in the United States, including drug products sold under the trade names of Trileptal, Diovan, Sandostatin, Tekturna, and Exforge. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Trileptal is an anti-epileptic drug that obtained approval from the Food and Drug Administration for treatment of partial seizures in patients who have epilepsy. From January 1, 2001 through June 30, 2005, Novartis promoted the sale and use of Trileptal for uses that the Food and Drug Administration had not approved. The settlement resolves allegations that Novartis illegally promoted the sale and use of Trileptal for off-label conditions, such as bipolar disorder and neuropathic pain. This settlement also resolves allegations that Novartis provided illegal remuneration, through mechanisms such as speaker programs, advisory boards, and gifts, (including entertainment, travel and meals), to healthcare professionals to induce them to promote and prescribe the drugs Trileptal, Diovan, Zelnorm, Sandostatin, Exforge and Tekturna.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$6,248,818.25. Of that amount, the federal government received \$4,280,223.63 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$1,968,594.62. Of this amount, the North Carolina Medicaid Program received \$678,717.10 as restitution and interest, \$1,206,689.80 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$83,187.72 went to the NC DOJ for costs of collection and investigation.

FOREST PHARMACEUTICALS & FOREST LABS (CELEXA, LEXAPRO & LEVOTHROID)

Forest Laboratories, Inc. is a Delaware corporation with its principal place of business in New York, New York, and Forest Pharmaceuticals, Inc. ("Forest") is a Delaware corporation with its principal place of business in St. Louis, Missouri distributed, marketed and sold pharmaceutical products in the United States, including the drugs sold under the trade names Celexa, Lexapro and Levothroid. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Celexa and Lexapro are anti-depressant drugs. The settlement resolves allegations that from January 1998 through December 2005, Forest Labs, Inc. and Forest Pharmaceuticals, Inc promoted the sale and use of Celexa and Lexapro for certain uses that the Food and Drug Administration had not approved and offered and paid illegal remuneration to physicians to induce them to promote and prescribe Celexa and Lexapro. The settlement also resolves allegations that Forest also knowingly submitted false claims to the Medicaid program through its distribution of the drug Levothroid when it did not qualify as a covered outpatient drug.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$5,362,477.63. Of that amount, the federal government received \$3,288,905.86 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$2,073,571.77. Of this amount, the North Carolina Medicaid Program received \$982,633.11 as restitution and interest, \$1,005,701.68 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$85,236.98 went to the NC DOJ for costs of collection and investigation.

ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS (TOPOMAX)

Ortho-McNeil-Janssen Pharmaceuticals, Inc. (OMJPI) is a Pennsylvania corporation with its principal place of business in Titusville, New Jersey. OMJPI distributed, marketed and sold pharmaceutical products in the United States, including a drug sold under the trade name Topomax. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Topomax is an antiepileptic and migraine prevention prescription medicine. From January 1, 2001 through December 31, 2003, OMJPI promoted the sale and use of Topomax for certain uses that the Food and Drug Administration had not approved. The settlement resolves allegations that OMJPI promoted the sale and use of Topomax for off-label conditions such as bipolar disorder and alcohol dependency.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$2,119,879.73. Of that amount, the federal government received \$1,263,457.05 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$856,422.68. Of this amount, the North Carolina Medicaid Program received \$288,198.74 as restitution and interest, \$532,589.98 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$35,633.96 went to the NC DOJ for costs of collection and investigation.

FIRSTHEALTH OF THE CAROLINAS D/B/A MOORE REGIONAL HOSPITAL

FirstHealth of the Carolinas is a North Carolina corporation headquartered in Pinehurst, North Carolina. This matter was referred to the Medicaid Investigations Unit by the U.S. Attorney's Office for the Middle District of N.C.

The investigation found that from October 1999 through September 2005, FirstHealth of the Carolinas, Inc. d/b/a Moore Regional Hospital, submitted claims for ambulance services that were not covered under the Medicare and Medicaid programs because these claims did not meet Medicare's definition of medical necessity.

Under the terms of the settlement, the government received \$2,000,000.00 for Medicare and Medicaid damages, \$389,159.00 of which was returned to the Medicaid program. Of that \$389,159.00 amount, the federal government received \$243,788.66 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$145,370.34. Of this amount, the North Carolina Medicaid Program received \$139,163.03 as restitution and \$6,207.31 went to the NC DOJ for investigative costs.

SCHWARZ PHARMA (DEPONIT, HYOSCYAMINE SULFATE CAPSULES & HYOSCYAMINE)

Schwarz Pharma, Inc. is a Delaware corporation headquartered in Mequon, Wisconsin and Schwarz Pharma Manufacturing, Inc. is an Indiana corporation headquartered in Seymour, Indiana. Schwarz distributed, marketed and sold pharmaceutical products in the United States, including the transdermal nitroglycerin drug sold under the trade name Deponit, Hyoscyamine Sulfate Tablets, Extended Release, and Hyoscyamine Sulfate Capsules, Extended Release. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Deponit is a nitroglycerin transdermal patch and is prescribed for the prophylaxis of angina. Hyoscyamine Sulfate is an antispasmodic drug used to treat various stomach, intestinal, and urinary tract disorders. The settlement resolves allegations that from April 1999 through December 31, 2008, Schwarz Pharma, Inc. submitted false information to the Centers for Medicare and Medicaid Services (CMS) that enabled these drugs to receive coverage and payment by Medicaid and other federal health care programs when, in fact, they were ineligible for such coverage.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$1,445,361.05. Of that amount, the federal government received \$878,107.75 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$567,253.30. Of this amount, the North Carolina Medicaid Program received \$390,502.03 as restitution and interest, \$152,751.90 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$23,999.37 went to the NC DOJ for costs of collection and investigation.

ALLERGAN (BOTOX)

Allergan, Inc. is a Delaware corporation with its principal place of business in Irvine, California. Allergan developed, manufactured, distributed, marketed and sold pharmaceutical products in the United States, including a drug sold under the trade name Botox. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Botox has been approved for several therapeutic indications for rare diseases and conditions such as strabismus (crossed eyes), blepharospasms (uncontrollable eye blinking),

cervical dystonia (abnormal head and neck posture, with involuntary contractions), and severe primary axillary hyperhidrosis (underarm sweating). The settlement resolves allegations that from January 1, 2001 through December 31, 2008, Allergan, Inc. promoted the sale and use of Botox for off-label conditions such as headaches, pain, overactive bladder and spasticity. The settlement also resolves allegations that Allergan, Inc. also provided extensive “free” reimbursement services and support to physicians for the purpose of increasing their Botox prescriptions. Such services included prescription audits, advice “hot lines,” medical necessity templates and the use of “office practice managers.” Reimbursement advice included coaching physicians to use a muscle spasm code in order to get paid for Botox prescriptions for headache and pain.

Under the terms of North Carolina’s settlement, the State of North Carolina recovered \$1,338,079.10. Of that amount, the federal government received \$917,178.51 to satisfy North Carolina’s obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$420,900.59. Of this amount, the North Carolina Medicaid Program received \$206,362.16 as restitution and interest, \$196,967.15 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$17,571.28 was paid to the NC DOJ for costs of collection and investigation.

SERONO (REBIF)

EMD Serono, Inc. is a Delaware corporation with its principal place of business in Massachusetts and Serono Laboratories, Inc. is a Massachusetts corporation with its principal place of business in Massachusetts. Serono developed, manufactured, distributed, marketed and sold pharmaceutical products in the United States, including the drug sold under the trade name Rebif. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Rebif is an interferon beta-1a drug used to treat relapsing forms of multiple sclerosis. During the period of January 2002 through December 2009, Serono promoted the drug Rebif through monetary and program kickbacks to health care professionals through the following activities: promotional speaking engagements, speakers’ training, and advisory and consultant meetings; expense reimbursement; independent medical grants and educational grants; sponsorships; and charitable contributions.

Under the terms of North Carolina’s settlement, the State of North Carolina recovered \$759,263.83. Of that amount, the federal government received \$420,978.22 to satisfy North Carolina’s obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$338,285.61. Of this amount, the North Carolina Medicaid Program received \$150,847.04 as restitution and interest, \$173,391.03 went to the Civil Penalty Forfeiture Fund for the benefit of public schools, and \$14,047.54 went to the NC DOJ for costs of collection and investigation.

ALPHARMA (KADIAN)

Alpharma, Inc., is a Delaware corporation that develops, manufactures, markets and sells pharmaceutical products in the U.S. including the morphine-based drug Kadian. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

The settlement resolves allegations that between January 1, 2000 to December 29, 2008, Alpharma engaged in an unlawful kickback scheme which included offering and paying illegal remuneration to health care professionals in connection with advisory boards, speakers' bureaus or training programs, educational or research grants, consulting forums, preceptorships, or arrangements to make patient enrollment payments in connection with educational or research grants, to induce health care professionals to promote and/or prescribe Kadian. Alpharma also made false representations regarding the safety and efficacy of Kadian to promote its use beyond its FDA indication.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$607,066.94. Of that amount, the federal government received \$389,474.80 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$217,592.14. Of this amount, the North Carolina Medicaid Program received \$105,454.05 as restitution and interest, \$105,837.08 went to the Civil Penalty Forfeiture Fund for the benefit of public schools and \$6,301.01 went to the NC DOJ for costs of collection and investigation.

INTERMUNE (ACTIMMUNE)

Intermune is a Delaware corporation headquartered in Brisbane, California that marketed and sold pharmaceutical products in the United States including a drug sold under the trade name Actimmune. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

Actimmune is approved for the treatment of two rare diseases, chronic granulomatous disease and severe, malignant osteopetrosis. It was alleged that between January 2001 and June 2003, Intermune promoted the sale and use of Actimmune for the treatment of idiopathic pulmonary fibrosis, a use for which the Food and Drug Administration ("FDA") had not approved Actimmune.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$569,740.05. Of that amount, the federal government received \$350,162.23 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$219,577.82. Of this amount, the North Carolina Medicaid Program received \$211,216.82 as restitution and interest and \$8,361.00 went to the NC DOJ for investigative costs.

KOS PHARMACEUTICALS (ADVICOR & NIASPAN)

Kos Pharmaceuticals, Inc. (KOS) is a Delaware corporation which distributed, marketed and sold pharmaceutical products in the United States, including drugs sold under the trade names Advicor and Niaspan. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

KOS manufactured and sold Advicor and Niaspan, two prescription drugs that treat low levels of HDL or "good cholesterol." During most of the time period of this investigation Advicor and Niaspan were the only drugs available that worked to increase good cholesterol levels. Cholesterol levels are measured in two components, "good cholesterol," HDL and "bad cholesterol," LDL. Treatment regimens with medications seek to raise the good cholesterol level, HDL, and to lower the bad cholesterol level, LDL. The settlement resolves allegations that from January 2001 to December 2006 KOS engaged in off-label marketing of Advicor and Niaspan and paid kickbacks to doctors through the use of quality initiatives coupon programs, preceptorships, and local advisory boards.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$415,425.92. Of that amount, the federal government received \$259,620.11 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$155,805.81. Of this amount, the North Carolina Medicaid Program received \$86,327.43 as restitution and interest, \$62,900.11 went to the Civil Penalty Forfeiture Fund for the benefit of public schools and \$6,578.27 went to the NC DOJ for costs of collection and investigation.

NOVARTIS (TOBI)

Novartis Pharmaceuticals Corporation is a manufacturer of pharmaceutical products. Novartis marketed and sold pharmaceutical products nationwide, including the drug TOBI. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

TOBI, an inhalable antibacterial manufactured by Novartis, is FDA approved for the treatment of lung infections associated with cystic fibrosis. The drug was first manufactured and sold by PathoGenesis Corporation of Seattle, Washington, after PathoGenesis obtained FDA approval in 1997. In August of 2000, Chiron, a vaccines manufacturer, acquired PathoGenesis and began manufacturing and marketing TOBI. In April 2006, Chiron was acquired by Novartis. Novartis created a new division, Novartis Vaccines and Diagnostics, Inc., to manufacture and sell Chiron products.

It was alleged from January 1, 2001 to April 20, 2006, Chiron and, from April 21, 2006 to July 31, 2006, Novartis promoted TOBI for unapproved uses, including use in children under 6 years of age and for treating lung infections not associated with cystic fibrosis. During the

course of the investigation, evidence was gathered supporting defendants' marketing and promotion of TOBI for three off-label uses: (1) for diseases other than cystic fibrosis; (2) to patients under the age of six years; and (3) for cystic fibrosis patients whose Forced Expiratory Volume measurement at one second (FEV) was over 75 percent.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$172,272.55. Of that amount, the federal government received \$110,095.37 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina State share of the settlement was \$62,177.18. Of this amount, the North Carolina Medicaid Program received \$30,360.75 as restitution and interest, \$29,210.58 went to the Schools Fund, and \$2,605.85 was paid to the NC DOJ for costs of collection and investigation.

COASTLINE CARE, INC.

Coastline Care, Inc. is a North Carolina corporation that provides ambulance and medical transportation services in Eastern North Carolina. This matter was referred to the MIU by the Office of Inspector General.

It was alleged that from January 1, 2002 to October 1, 2006, Coastline billed Medicaid and Medicare for non-emergency ambulance transport for patients whose transport was not medically necessary.

Under the terms of the settlement, the government recovered \$100,000. Of that amount Medicare received \$80,000.00 and Medicaid received \$20,000.00. Of the Medicaid amount the federal government received \$12,722.00 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government, the North Carolina Medicaid Program received \$6,967.23, and \$310.77 was paid to the NC DOJ for investigative costs.

ORPHAN/JAZZ (XYREM)

Orphan was a Minnesota corporation that acquired, developed, and marketed pharmaceuticals as therapies for "inadequately treated and uncommon diseases" used by specialist physicians. Orphan was acquired in 2005 by Jazz Pharmaceuticals. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

It was alleged that from January 1, 2003 to December 31, 2005, Orphan/Jazz engaged in off label marketing of its drug Xyrem. Xyrem was approved by the FDA in 2002 for treating a small population of patients with narcolepsy who experience episodes of cataplexy. Because of safety concerns associated with the use of the drug, the distribution of Xyrem is tightly

restricted. Orphan marketed Xyrem for the treatment of fatigue, fibromyalgia, non-specific sleepiness, insomnia, pain and psychiatric disorders.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$20,900.64. Of this amount, the North Carolina Medicaid Program received \$20,670.80 and \$229.84 was paid to the NCDOJ for costs of collection and investigation.

COCHLEAR AMERICAS

Cochlear Americas is a durable medical equipment company that manufactures cochlear implants, hearing devices for deaf and profoundly hard of hearing patients. This matter was referred to the MIU by the National Association of Medicaid Fraud Control Units.

It was alleged that between January 2001 and July 2004, Cochlear Americas paid remuneration to audiologists, surgeons, audiology clinics, and hospitals that purchased the company's products, and that these inducements were designed to cause physicians to recommend that Cochlear Americas' products be used rather than competitors' products.

A settlement was reached between Office of Counsel to the Inspector General (OCIG) and Cochlear Americas. The states did not sign separate settlement agreements with the defendant, but the settlement includes recovery for the states' Medicaid expenditures. North Carolina recovered \$6,515.30. Of that amount, \$6,237.10 was paid directly to the North Carolina Medicaid Program as restitution, and \$278.20 was paid to the NC DOJ for investigative costs.

VI. PROSPECTUS

Each year the MIU has consistently endeavored to achieve a high standard of excellence in its efforts to effectively and efficiently combat fraud and abuse within the Medicaid Program. Building on the solid progress of the past several years, it is anticipated that the MIU's accomplishments will continue in the next fiscal year. This optimism is based upon several factors:

The MIU continues to have strong referral relationships with DHHS as well as other state and federal investigative and prosecutorial agencies. These relationships have played an important role in the MIU's success to date and should significantly contribute to the MIU's accomplishments in the next fiscal years. There are currently a substantial number of cases in prosecutor disposition stage, many of which should be successfully concluded by criminal or civil action during the next fiscal year. Several cases that involve substantial losses to the Medicaid Program and other governmental programs have good potential for successful conclusion during the next fiscal year.

We are involved in numerous global/multi-state cases which have potential for successful conclusions during the next fiscal year. Also, during the next fiscal year we expect to conclude additional substantial civil false claims cases involving a variety of Medicaid providers. The MIU has active investigations involving improper billing practices by North Carolina providers that should result in substantial criminal and civil monetary recoveries for the Medicaid Program during the next fiscal year.

New MIU positions and staff will allow the MIU to more effectively address the problem of Medicaid fraud and abuse in North Carolina. The MIU will continue to benefit in the upcoming year from greater experience and expertise on the part of new and existing staff in the various disciplines within the office.

We anticipate that during the upcoming fiscal year the MIU will continue to identify and utilize available training opportunities for all staff disciplines and provide training opportunities to its staff. These training opportunities will increase the knowledge, skills, and abilities of MIU staff and enable the MIU to continue to increase its proficiency in investigating and prosecuting fraud and abuse. Due to the significant number of new employees, the MIU reached out to NAMFCU, and NAMFCU agreed to offer instruction in Raleigh in November 2011 to train new MIU employees. This course will be taught by experienced attorneys and investigators from Medicaid Fraud Control Units across the country and it will be attended by other MIU staff from all around the country as well as our own staff.

As a result of efforts to pursue more sophisticated cases in new provider areas, the investigative and prosecutorial personnel will continue to gain valuable experience which can be applied in future cases. This is especially true in the areas of patient abuse, home health care, mental health, and institutional providers. Training and experience have increased proficiency on the part of MIU personnel in using computer technology both in conducting investigations and preparing cases for trial. All MIU staff have are individually connected through a local area network to the N. C. Department of Justice and beyond through a wide area network. This allows attorneys and investigators to obtain necessary information much more expeditiously and efficiently. Portable computers are now available for use by all investigators and attorneys in the field or for trial. In view of the current trends by providers toward the greater use of computer technology, we believe the resources in this area will greatly enhance efforts to detect, investigate, and prosecute Medicaid fraud and abuse.

Additionally, single-state agency has implemented a fraud and abuse detection system which should enhance the MIU's capability and referrals through cooperative arrangement with that agency. The MIU continues to be involved in this process by making suggestions for system improvements. It has been given access to the system through computer terminals within the MIU and staff received training on the new system. We are reaping the benefits of this resource through greater speed and efficiency in obtaining and applying Medicaid Program data for use in evaluating referrals and MIU investigations.

Additionally, the MIU has a document imaging system that allows investigators to scan and search voluminous records rather than relying on hard copies. The MIU also provides GPS devices for its investigators to allow them to more quickly and accurately drive to and find witnesses. The MIU previously purchased this equipment and acquired new computer technology, training and equipment by using funds from the Asset Forfeiture Equitable Sharing Program and not General Fund dollars.

In the upcoming fiscal year the MIU will continue to focus on important areas of Medicaid fraud which are deserving of special attention including community support service providers, personal care service providers, and transportation providers. At the same time, we will maintain our visibility in more traditional provider areas. During FY 10/11 the MIU will continue its strong interest in the important area of patient abuse and neglect as well as financial exploitation of Medicaid recipients. As noted, the MIU participates in numerous patient abuse and neglect working groups. As the expertise and referral sources continue to expand and improve, successful prosecutions in this area should increase. We will continue to explore the appropriate use of the expanded jurisdiction given to the Medicaid Fraud Control Units by recent federal legislation.

The MIU has a branch office in Charlotte, North Carolina. The MIU Charlotte Office has enabled the MIU to better serve western North Carolina and Mecklenburg County, which has the highest total dollars in Medicaid provider payments of any county in North Carolina and to increase the MIU's participation in joint health care fraud cases with the United States Attorney's Office for the Western District of North Carolina.

During the past fiscal year the MIU worked hard to improve its referral database and referral intake system. The MIU uses an Access database to track cases and has implemented policies and procedures to better track case referrals.

As the MIU has grown, it has made appropriate updates, improvements and revisions to its policy and procedure manual that should result in more efficient investigation and assist the MIU overall in its efforts to prosecute Medicaid provider fraud and abuse.

Optimism must be tempered by the fact that due to the creation of new positions, internal promotions, and hiring new staff, approximately 60% the MIU's staff have been in their current positions for less than one year and will need additional training. In addition, during the past year a substantial part of MIU resources was diverted to administrative work in order to create and fill new positions, lease new space, and train staff. Further, fraud investigations by their nature may take over a year to complete. However, the new staff, training, and the excellent work of the MIU should result in an increase in convictions and recoveries in the long term.

The MIU has reason to remain optimistic as to the long term productivity of the MIU. We remain committed to fight fraud and abuse in the Medicaid Program as efficiently and effectively as possible and pledge its best efforts toward the accomplishment of that goal.