

**TESTIMONY OF CHARLES C. MADDOX, ESQ.
INSPECTOR GENERAL, BEFORE THE COMMITTEE
ON THE JUDICIARY**

**BILL 14 – 96, THE “MEDICAID PROVIDER FRAUD
PREVENTION AMENDMENT OF 2001”**

JUNE 6, 2001

GOOD MORNING CHAIRPERSON PATTERSON AND MEMBERS OF THE COMMITTEE. SITTING WITH ME TODAY IS SID ROCKE, DIRECTOR OF THE OFFICE OF THE INSPECTOR GENERAL’S (OIG) MEDICAID FRAUD CONTROL UNIT.

I AM PLEASED TO TESTIFY BEFORE THIS COMMITTEE TODAY ON BILL 14 – 96. WE BELIEVE THAT THIS BILL WILL PROVE TO BE A VALUABLE ADDITION TO THE FRAUD FIGHTING ARSENAL CURRENTLY BEING USED BY THE OFFICE OF THE INSPECTOR GENERAL’S (OIG) MEDICAID FRAUD CONTROL UNIT.

IN THIS REGARD, I BELIEVE THAT A BRIEF HISTORICAL REVIEW OF THE DISTRICT’S EFFORTS TO FIGHT FRAUD IN THE MEDICAID PROGRAM WOULD BE APPROPRIATE. OUR CURRENT MEDICAID FRAUD CONTROL UNIT WAS CERTIFIED BY THE FEDERAL GOVERNMENT AND BEGAN TO RECEIVE FEDERAL GRANT FUNDS FOR 75 PERCENT OF ITS EXPENSES ON MARCH 1ST 2000. THE UNIT WAS FULLY STAFFED AND OPERATIONAL BY SEPTEMBER 2000. THIS TREMENDOUS STEP FORWARD FOR

THE DISTRICT ENDED THE 17-YEAR GAP IN WHICH THERE WAS NO UNIT IN THE DISTRICT DEDICATED TO A FULL-TIME FIGHT AGAINST PROVIDER FRAUD AND ABUSE IN THE MEDICAID PROGRAM. A PREVIOUS MEDICAID FRAUD CONTROL UNIT HAD BEEN DECERTIFIED BY THE FEDERAL GOVERNMENT IN 1983 DUE TO LACK OF PRODUCTIVITY. DURING THAT 17-YEAR GAP THE OFFICE OF THE CORPORATION COUNSEL ASSUMED SOME OF THESE DUTIES, ALBEIT WITH VERY LIMITED STAFF AND RESOURCES. IT WAS DURING THAT ERA THAT THE MEDICAID FRAUD PREVENTION LEGISLATION NOW BEING AMENDED, D.C. CODE § 3 – 704, WAS ENACTED. THIS LEGISLATION PROVIDES BOTH PENALTIES AND PROSECUTION TOOLS SPECIFIC TO FRAUD IN THE MEDICAID PROGRAM. UNFORTUNATELY, AS OF MARCH 1, 2000, THE ORIGINAL LEGISLATION NO LONGER REFLECTED THE CURRENT STRUCTURE OF THE DISTRICT GOVERNMENT. IT MENTIONS ONLY THE OFFICE OF THE CORPORATION COUNSEL AND OMITTS THE OIG AND, THEREFORE, THE MEDICAID FRAUD CONTROL UNIT.

BILL 14 – 96 WILL BRING THE DISTRICT’S MEDICAID FRAUD LEGISLATION UP TO DATE BY RECOGNIZING OUR CURRENT GOVERNMENTAL STRUCTURE. BEFORE PASSAGE OF THIS LEGISLATION ON A TEMPORARY EMERGENCY BASIS, OUR MEDICAID FRAUD CONTROL UNIT COULD ONLY PROSECUTE USING FEDERAL STATUTES OR GENERAL THEFT OR FRAUD STATUTES IN THE D.C. CODE. BY CHANGING THIS LEGISLATION

YOU HAVE GIVEN US AN ADDITIONAL STATUTE TO WORK WITH.

THE CONSEQUENCES, FROM A PRACTICAL PERSPECTIVE, ARE SIGNIFICANT. CURRENTLY, ALL OF THE ATTORNEYS IN THE MEDICAID FRAUD CONTROL UNIT HAVE BEEN SWORN IN AS SPECIAL ASSISTANT UNITED STATES ATTORNEYS. IN THIS CAPACITY, THEY CAN PROSECUTE BOTH CIVIL AND CRIMINAL CASES RELATED TO THE MEDICAID PROGRAM. IN ORDER TO BE CERTIFIED BY THE FEDERAL GOVERNMENT AND RECEIVE FEDERAL FUNDING, THE MEDICAID FRAUD CONTROL UNIT NEEDED TO DEMONSTRATE THAT IT WOULD BE ABLE TO BRING FELONY CHARGES ON A CONSISTENT AND RELIABLE BASIS. IN ORDER TO MEET THIS REQUIREMENT THE OFFICE OF INSPECTOR GENERAL ENTERED INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF COLUMBIA. IN ESSENCE, THIS MOU ESTABLISHES THAT WE WILL PRESENT ALL VIABLE INVESTIGATIONS TO THE UNITED STATES ATTORNEY'S OFFICE FOR ITS CONSIDERATION. IF A CASE IS SELECTED FOR PROSECUTION, IT WILL GENERALLY BE HANDLED BY OUR ATTORNEYS ACTING AS SPECIAL ASSISTANT UNITED STATES ATTORNEYS. USUALLY THEY WORK WITH A PERMANENT ASSISTANT UNITED STATES ATTORNEY AS CO-COUNSEL. ON THE OTHER HAND, IF THE UNITED STATES ATTORNEYS OFFICE DECLINES TO PROSECUTE A CASE, WE ARE FREE TO PURSUE ANY OTHER OPTIONS WE DEEM VIABLE.

ONE OPTION THIS LEGISLATION WILL GIVE US IS THE OPPORTUNITY TO PROSECUTE THESE DECLINED CASES INDEPENDENTLY OF THE UNITED STATES ATTORNEY'S OFFICE. OTHER PROVISIONS OF THIS LEGISLATION WILL REINFORCE OUR ABILITY TO SUBPOENA DOCUMENTS OR WITNESS TESTIMONY.

WE EXPECT THE PROVISIONS OF THIS BILL TO ENABLE US TO CONTINUE OUR COOPERATIVE RELATIONSHIP WITH THE CORPORATION COUNSEL. BILL 14 – 96 ADDS THE OIG TO THE STATUTE, BUT DOES NOT REMOVE THE CORPORATION COUNSEL. THE CORPORATION COUNSEL WILL CONTINUE TO HAVE CONCURRENT JURISDICTION IN CASES OF PROVIDER FRAUD AGAINST THE MEDICAID PROGRAM. FURTHERMORE, THEY WILL CONTINUE TO BE ABLE TO UTILIZE THIS STATUTE IN INSTANCES OF MEDICAID RECIPIENT FRAUD AGAINST THE PROGRAM. THIS IS NOTEWORTHY SINCE THE MEDICAID FRAUD CONTROL UNIT IS BARRED BY FEDERAL GRANT RESTRICTIONS FROM PURSUING FRAUD PERPETRATED SOLELY BY RECIPIENTS. IN ADDITION, IN APPROPRIATE CASES, WE CAN JOINTLY PROSECUTE A PROVIDER FRAUD CASE WITH CORPORATION COUNSEL. IN FACT, WE HAVE ALREADY HAD POSITIVE DISCUSSIONS WITH CORPORATION COUNSEL ON THIS VERY SUBJECT.

AS YOU KNOW, WHITE-COLLAR FRAUD PROSECUTIONS ARE GENERALLY LENGTHY AND RESOURCE INTENSIVE.

HEALTH-CARE FRAUD IS NO EXCEPTION TO THIS RULE. HOWEVER, I AM PLEASED TO NOTE THAT IN ITS BRIEF EXISTENCE, THE MEDICAID FRAUD CONTROL UNIT HAS ALREADY MADE AN EXCELLENT START IN THIS DIFFICULT BATTLE. IT HAS ALREADY INITIATED OVER 20 FRAUD INVESTIGATIONS, SOME OF WHICH ARE CLOSE TO RESOLUTION. IN FACT, THE PROSECUTION OPTION THAT YOU HAVE PROVIDED TO THE MEDICAID FRAUD CONTROL UNIT ON A TEMPORARY EMERGENCY BASIS HAS ALREADY PLAYED A ROLE IN PLEA NEGOTIATIONS IN ONE OF OUR CASES.

WE VERY MUCH APPRECIATE THE SUPPORT THAT THE COUNCIL HAS SHOWN OUR UNIT, WITH REGARD TO THIS BILL AND SEVERAL OTHER MATTERS, AS WE HAVE MOVED TOWARD FULL OPERATION. WE STRONGLY SUPPORT PASSAGE OF THE BILL AND WELCOME THE OPPORTUNITY TO TESTIFY HERE TODAY. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.