CLIENT ALERTS & INSIGHTS

Increased Medicare Enforcement Forthcoming? Minnesota Legislature, Attorney General Propose Expanded Charging Authority, Higher Penalties

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Key Takeaways

- Minnesota's proposed Medical Assistance Protection Act (MAP) would significantly expand the state's Medicaid fraud enforcement powers, increasing investigative staff, broadening subpoena authority and raising penalties for violations.
- Organizations face a much higher risk of investigation and prosecution-including the increased risk of parallel investigations creating civil and/or criminal exposure-with more complex multi-defendant and multi-entity investigations, faster-moving cases, expanded definitions of fraud and the potential for severe financial and criminal penalties-including racketeering charges.
- Entities operating in Minnesota's Medical Assistance program should immediately review and strengthen documentation, record retention and provider-enrollment processes to prepare for greater scrutiny and heightened enforcement, and minimize exposure to new risks. Earlier investigative intervention will be critical, as expanded subpoena powers and larger investigative teams will accelerate case development.

On February 25, 2026, Minnesota Attorney General Keith Ellison, together with bipartisan legislative sponsors, introduced the 2026 Medical Assistance Protection Act ("MAP"), a sweeping proposal that would materially expand the state's Medicaid fraud enforcement framework.[1] The bill responds to a sharp rise in fraud referrals-which have nearly tripled since the previous fiscal year-and aims to strengthen investigative authority, increase criminal penalties and enhance the state's ability to recover taxpayer funds.[2] MAP is yet another example of the increasing focus on healthcare fraud at both the state and federal levels.

Expansion of Attorney General Enforcement Powers Likely to Increase Investigations and Prosecutions:

Broader Investigative Capacity

The Minnesota Attorney General's Office's Medicaid Fraud Control Unit ("MFCU") currently consists of 32 staff members and operates with a roughly $5 million budget. MAP would allocate an additional $1.23 million in Fiscal Year 2027 to the office and an additional 18 staff members to the

MCFU, including 11 investigators, three attorneys, and four support staff. With fraud referrals already at historic highs, this staffing increase signals a sustained period of heightened investigative activity.

New Subpoena Authority

Another key component of MAP is heightened subpoena powers for the Attorney General ("AG"). Currently, the AG is limited in its authority to subpoena certain records when conducting criminal investigations, contrary to the broader powers afforded to county attorneys.[3] Specifically, the AG may subpoena records showing the existence of a financial account but is not afforded the explicit authority to subpoena the financial records themselves.[4] MAP would explicitly provide the AG with this authority when conducting a Medicaid fraud investigation, signaling an intent to centralize investigations under one authority. This would streamline early-stage AG investigations and reduce reliance on voluntary cooperation or parallel county-level processes.

Expanded Fraud Definitions

Perhaps most significantly, MAP would broaden the conduct the AG could prosecute under Minnesota's Medical Assistance fraud statute. Currently, prosecutions are limited to instances where a provider presents false claims for reimbursement[5]; MAP would expand liability to a wider range of fraudulent acts, including but not limited to: providing false information during provider enrollment, altering or destroying records after receiving a lawful request for those records, and preparing or submitting claims known to be ineligible for payment or reimbursement. This potential expansion of prohibited conduct would demonstrate a significant increase on state-level enforcement of Medicaid fraud in Minnesota.

Additionally, MAP would incorporate Medical Assistance fraud into Minnesota's racketeering statute. This change would increase potential liability for multiparticipant or multientity schemes, increase the government's leverage in plea negotiations and expand potential criminal exposure for individuals and organizations.

Increased Penalties Signal Necessity of Effective Compliance Programs:

In addition to the expanded enforcement powers, MAP would also increase potential penalties by establishing new penalty tiers for instances of fraud exceeding $100,000 and $1,000,000 respectively. This is a drastic shift from the current framework, which treats all Medical Assistance fraud above $35,000 identically. MAP would further enhance potential penalties by classifying Medical Assistance fraud as a completed theft rather than an attempted theft, raising the maximum penalty from a 2.5-year sentence to a 10-year sentence.

MAP pairs this increase in potential incarceration with expansive restitution authority. Currently, in Minnesota, prosecutors can only seek restitution equaling the amount of fraud charged. This has slowed charging decisions as prosecutors investigate the entire scope of the fraud to include in an indictment.[6] MAP expands prosecutorial power by permitting restitution for fraud proved at sentencing, even if not charged in the initial indictment. This change may accelerate charging decisions and increase early-stage pressure on defendants.

For organizations, executives and employees operating in Minnesota's Medical Assistance program, MAP represents a material escalation in enforcement risk and a corresponding need to reassess compliance, documentation and internal controls.

Conclusion:

With fraud referrals already at historic highs, MAP's staffing surge and broadened definitions of prohibited conduct point to a sustained period of heightened investigative activity. By streamlining early-stage inquiries and expanding the AG's access to financial records, MAP materially increases both the scope and efficiency of AG investigations. Healthcare entities and individuals operating in Minnesota should expect faster-moving cases, more aggressive charging decisions, and significantly higher penalty exposure. Other jurisdictions should pay close attention to the progression of MAP, as it may become a model for Attorneys General seeking similar enforcement authority.

The Benesch team will continue to monitor for updates in this space to ensure we can properly advise clients doing business in Minnesota. The proposed legislation demonstrates an increased need for proactive compliance and detection of issues for entities operating in Minnesota. Benesch can provide the necessary training and conduct investigations, when needed, that will help in interfacing with the newly empowered regulator.

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[1] Minn. Att'y Gen.'s Office, *AG Ellison, Rep. Norris, Sen. Johnson Stewart introduce bipartisan bill cracking down on Medicaid fraud* (Feb. 25, 2026), https://www.ag.state.mn.us/Office/Communications.2026/02/25_ MedicaidFraud.asp.

[2] *See e.g.*, *United States v. Grygo et al.*, Case No. 24-337 (Minn. Dist. Ct. 2025); *Minn. Att'y Gen.'s Office, Attorney General Ellison wins $18.5 million Medicaid fraud settlement* (June 26, 2025), https://www.ag.state.mn.us/Office/Communications.2026/02/25_ MedicaidFraud.asp.

[3] *Compare* Minn. Stat. § 8.16, *with* Minn. Stat. § 388.23.

[4] Minn. Stat. § 8.16.

[5] Minn. Stat. § 609.466.

[6] *See supra* note 1.