State Medicaid Fraud Enforcement Efforts

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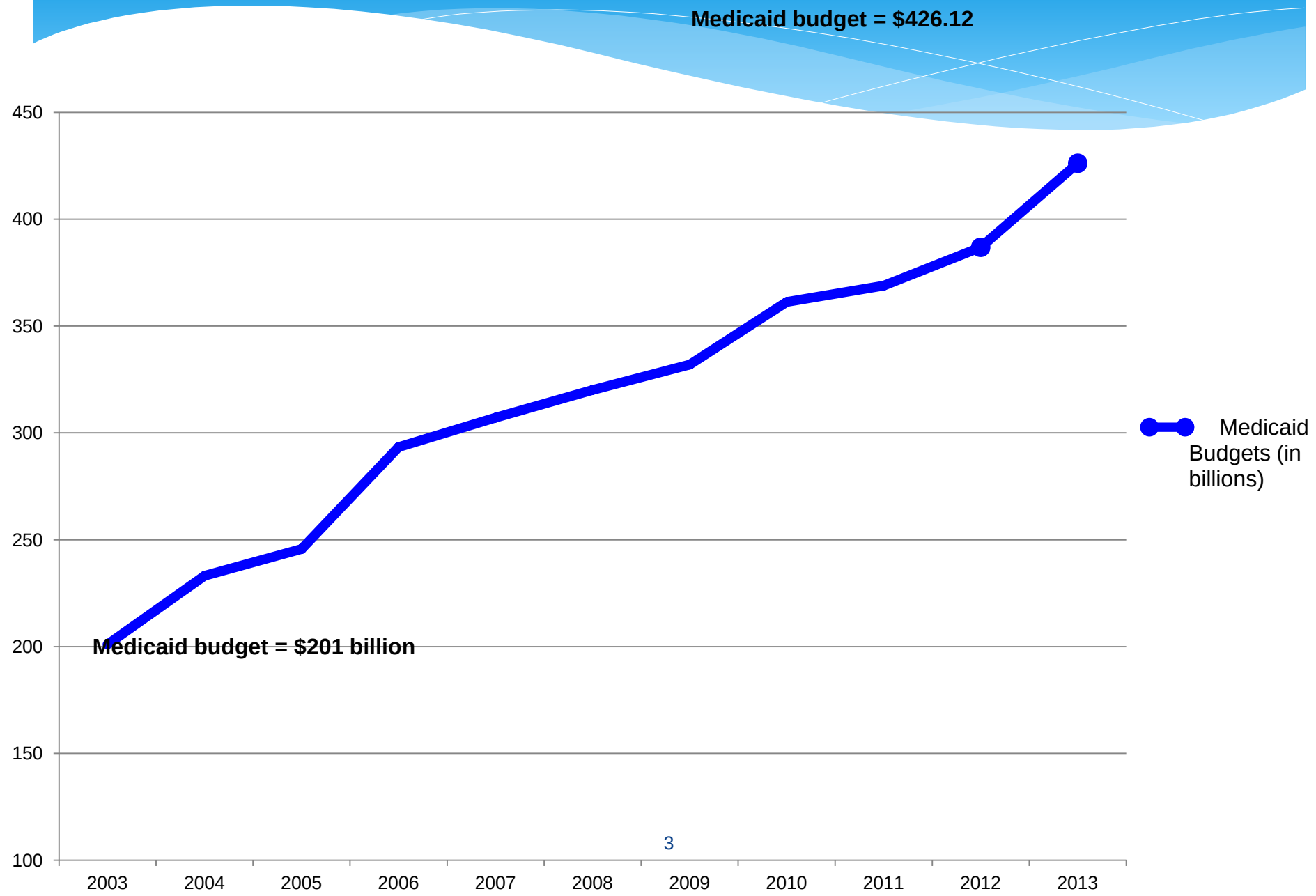
MFCU Convictions & Recoveries

Federal Fiscal Year 2012

* Criminal Convictions – 1,337
* Civil Settlements and Judgments – 823
* Monetary Recoveries - $2,928,824,259.86

Growth of Medicaid Budgets Over Ten Years (2003 - 2013)



MFCU Growth: Staff and Budget

* Staffing
  * 2003: 1,527 employees
  * 2013: 2,000+ employees

* Budget
  * 2003: $146.9 million
  * 2013: $222 million

12 MFCU Performance Standards Revised – June 1, 2012

New sections related to MFCU/PI relationship

Standard 3 - Policies and Procedures

- Procedures include a process for referring cases, when appropriate, to federal and state agencies. MFCU Referrals to state Medicaid agency should identify whether further investigation or administrative action is warranted, collection of overpayments or payment suspension.

12 MFCU Performance Standards Revised – June 1, 2012

Standard 4 – Referrals

- MFCU expected to develop protocols to ensure receive suspected fraud referrals from SSA.
- MFCU provides timely written notice to SSA when referrals are accepted or declined.
- MFCU provides periodic feedback regarding adequacy of volume/quality of referrals.
- MFCU provides timely information to SSA about status of MFCU investigations, when SSA requests.

12 MFCU Performance Standards Revised – June 1, 2012

Standard 10 – MOU

- MFCU negotiates MOU with SSA as necessary to ensure it reflects current practice, policy and legal requirements.

Standard 12 – Training

- MFCU staff to provide training on elements of successful fraud referrals and to receive training on rules and responsibilities of Medicaid agency.

Data Mining

* On May 17, 2013 HHS/OIG issued a final rule modifying a long-standing prohibition that prevented MFCUs from using federal matching funds to conduct data mining
* Data Mining is now defined as the practice of electronically sorting Medicaid claims through statistical models and intelligent technologies to uncover patterns and relationships in Medicaid claims activity and history to identify aberrant utilization and billing practices that may be fraudulent

Data Mining (cont)

* Rule outlines three necessary elements;
  1. MFCU and State Medicaid agencies must fully coordinate MFCU's use of data mining
  2. MFCU must confirm that data mining results were interpreted correctly
     - Consistent with current policies and practices
  3. MFCU staff will be required to be trained in data mining techniques

Data Mining (cont)

* The MFCU must identify these three critical elements in its agreement with the State Medicaid agency
* OIG must approve the agreement in consultation with CMS within 90 days
* Rule also outlines specific information that must be included in MFCU's annual report

Managed Care

* Approximately 40 states now have managed care policies
* Some states are moving almost entirely into Medicaid managed care
  * New York, Texas, Florida, and my home state, to name a few
* Key objectives are improvement in health plan performance and health care quality

Managed Care (cont)

* HHS-OIG revised the MFCU performance standards, issued in June 2012
* MFCUs are now required to develop protocol to ensure that MCOS refer suspected provider fraud
  * Performance Standard 4
* MFCU must have a commensurate number of managed care cases in its case mix
  * Performance Standard 6
* MFCUs required to incorporate managed care officials in meetings and trainings

Challenges Posed by Managed Care

* Managed care organizations are not law enforcement agencies
* Fears that there will be a decrease in number and quality of referrals
* Who gets the money that is recovered?
* Encounter data
  * Vital to proving a fraud case
  * Merging data from multiple organizations can be difficult
* To meet these challenges, MFCUs are educating and training MCO Special Investigative Units

Resident Abuse

* MFCUs only law enforcement agencies in in the country specifically charged with investigating and prosecuting abuse and neglect in
  * Nursing Homes
  * Other Medicaid funded facilities
  * Board and care facilities
- Revised Performance Standards, June 2012, now require

Resident Abuse (cont)

* MFCUs with original jurisdiction to investigate/prosecute resident abuse cases, now need to insure that pertinent agencies refer these cases to the unit
* Expect to see increase in these investigations and prosecutions in those states

Failure of Care

* Cases filed by the government against health care providers, generally nursing homes, who
  * Knowingly render grossly substandard care or no care at all
  * And bill Medicare or Medicaid for alleged care
* Cases being pursued under federal False Claim Act
* Enforcement priority of DOJ/OIG/MFCUs

Failure of Care (cont)

* MFCUs coordinating with federal government on these cases
* Increase in number of these cases
* Expect this trend to continue

Global Cases

* Since 1993, NAMFCU has settled more than 80 global cases and recovered more than $8 billion
* Generally involve national or multi-state defendants:
  * Pharmaceutical Manufacturers
  * Pharmacy Chains
  * Durable Medical Equipment Suppliers
  * Hospitals, Labs, Nursing Homes

Global Cases (cont)

* More MFCUs contributing to the process
* MFCUs are now more actively involved in the early stages of these cases
* MFCUs work closely with each other and the federal government to resolve cases involving Medicaid and Medicare programs
* Federal government and defense attorneys recognize that settling with one state Medicaid agency does not resolve claims in other states

Recent Global Case Successes

* Victory Pharma
* Par Pharmaceuticals
* Ranbaxy