

9505.2200 IDENTIFYING FRAUD, THEFT, ABUSE, OR ERROR.

Subpart 1. **Department investigation.** The department shall investigate vendors or recipients to monitor compliance with program requirements for the purposes of identifying fraud, theft, abuse, or error in the administration of the programs.

Subp. 2. **Contacts to obtain information.** The department may contact any person, agency, organization, or other entity that is necessary to an investigation under subpart 1. Among those who may be contacted are:

- A. government agencies;
- B. third-party payers, including Medicare;
- C. professional review organizations as defined in Minnesota Statutes, section 145.61, subdivision 5, or their representatives;
- D. consultants under contract in part 9505.0185;
- E. recipients and their responsible relatives;
- F. vendors and persons employed by or under contract to vendors;
- G. professional associations of vendors and their peers;
- H. recipients and recipient advocacy organizations; and
- I. members of the public.

Subp. 3. **Activities included in department's investigation.** The department's authority to investigate extends to the examination of any person, document, or thing which is likely to lead to information relevant to the expenditure of funds, provision of services, or purchase of items, provided that the information sought is not privileged against such an investigation by operation of any state or federal law. Among the activities which the department's investigation may include are as follows:

- A. examination of health service and financial records;
- B. examination of equipment, materials, prescribed drugs, or other items used in or for a recipient's health service under a program;
- C. examination of prescriptions for recipients;
- D. interviews of contacts specified in subpart 2;
- E. verification of the professional credentials of a vendor, the vendor's employees, and entities under contract with the vendor to provide health services or maintain health service and financial records related to a program;
- F. consultation with the department's peer review mechanisms; and

G. determination of whether a health service provided to a recipient meets the criteria of parts 9505.0210 and 9505.0215.

Subp. 4. **Determination of investigation.** After completing its investigation under subparts 1 to 3, the department shall determine whether:

A. the vendor or the recipient is in compliance with the requirements of a program and program payments were properly made;

B. insufficient evidence exists that fraud, theft, abuse, or error has occurred; or

C. the evidence of fraud, theft, abuse, or error supports administrative, civil, or criminal action.

Subp. 5. **Postinvestigation actions.**

A. After completing the determination required under subpart 4, the department shall take one or more of the actions specified in subitems (1) to (8):

(1) close the investigation when no further action is warranted;

(2) impose administrative sanctions according to part 9505.2210;

(3) seek monetary recovery according to part 9505.2215;

(4) refer the investigation to the appropriate state regulatory agency, peer review mechanism, or licensing board;

(5) refer the investigation to the attorney general or, if appropriate, to a county attorney for possible civil or criminal legal action;

(6) issue a warning that states the practices are potentially in violation of program laws or regulations;

(7) refer the investigation to the appropriate child or adult protection agency;

or

(8) place the recipient in the restricted recipient program.

B. After completing the determination required under subpart 4, the department may seek recovery of investigative costs from a vendor under Minnesota Statutes, section 256B.064, subdivision 1d.

Statutory Authority: *MS s 256B.04; 256D.03*

History: *15 SR 2563; 19 SR 1898; 33 SR 127*

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