

## Health

### FY18-19 Biennial Budget Change Item

#### Change Item Title: Protect Vulnerable Adults in Health Care Settings

Fiscal Impact (\$000s)	FY 2018	FY 2019	FY 2020	FY 2021
<b>Department of Health</b>				
General Fund				
Expenditures	633	559	948	858
Revenues				
State Government Special Revenue				
Expenditures	688	688	1,032	1,032
Revenues	688	688	1,032	1,032
Federal Fund				
Expenditures	0	685	1,087	1,039
Revenues	0	685	1,087	1,039
<b>Department of Human Services</b>				
General Fund				
Expenditures	132	143	203	207
Revenues				
Net Fiscal Impact = (Expenditures – Revenues)	765	702	1,151	1,065
<b>Total FTEs</b>	11	16	24	23

#### Recommendation:

The Governor recommends protecting the 125,000 vulnerable adults in licensed health care and home care settings by expanding the Minnesota Department of Health's (MDH) Office of Health Facility Complaints to keep pace with the seven-fold increase in maltreatment complaints. Current funding supports investigating only ten percent of complaints received from families and other community members and only one percent of incidents self-reported by providers, which requires prioritizing complaints alleging actual harm. This proposal allows MDH to increase the number of investigations, complete more investigations within statutorily required deadlines, and investigate allegations of moderate harm to prevent such situations from resulting in serious harm later on.

The Office of Health Facility Complaints is supported by a mix of general fund, federal Medicare and Medicaid funds, and fees paid by providers. Therefore this proposal is funded with \$1.192 million in FY 2018-19 and \$1.806 million in FY 2020-21 from the general fund, an increase in fees paid by nursing home and home care providers of 10% in FY 2018 and another 5% in FY 2020 and a corresponding appropriation increase in the state government special revenue fund, and an assumption of a near-corresponding increase in federal funding starting in FY 2019.

By law, regulatory fees paid by nursing homes are considered an operating cost for the purposes of setting cost-based nursing home reimbursement rates. As a result, the increased fees being charged in this proposal will result in higher Medical Assistance rates which results in a general fund cost to the Department of Human Services.

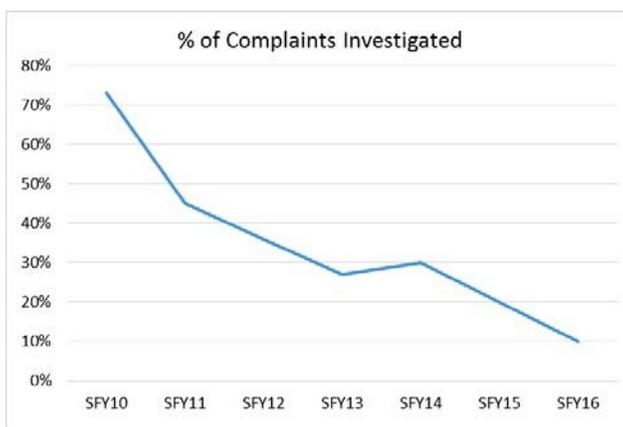
#### Rationale/Background:

A vulnerable adult is anyone over 18 years of age who is vulnerable due to age or illness, physical or mental disabilities or psychiatric problems, and is reliant on people outside of the family for care. The Minnesota Vulnerable Adults Act ensures safe environments and services for vulnerable adults through a centralized reporting system for maltreatment complaints and coordinated investigation of suspected maltreatment by state and local agencies. Maltreatment includes abuse, both physical and emotional; neglect; and financial exploitation, including drug diversion.

As one of the lead investigative agencies under the Vulnerable Adults Act, MDH's Office of Health Facility Complaints (OHFC) investigates maltreatment complaints for the 90,000 people receiving state-licensed home care and the 35,000 people receiving

care in 2,600 state-licensed health care facilities such as nursing homes, hospitals, and hospices. OHFC investigates maltreatment complaints under a combination of the Vulnerable Adults Act, state licensure law, and federal Medicare and Medicaid regulations. Enforcement is done by responding to complaints of maltreatment and through regular inspections of health care settings. OHFC receives complaints from families and other community members, as well as from facilities, which are required to report to OHFC allegations of possible maltreatment that occur in their facilities.

The number of maltreatment complaints has grown exponentially in recent years due to a rapidly aging population requiring service, and the creation of a statewide common entry point for complaints. The Minnesota Adult Abuse Reporting Center (MAARC) is a centralized system operated by the Department of Human Services that allows Minnesotans to easily report online or by phone allegations about maltreatment of vulnerable adults. Since FY 2010, maltreatment complaints received by OHFC have grown by nearly 600 percent, from less than 500 to nearly 3,500. After MAARC was implemented in July 2015, there was a 28% increase in complaints received from MAARC. The number of maltreatment complaints routed from MAARC is expected to increase further due to a current public awareness campaign. Provider self-reports are also growing substantially, from 3,115 in FY 2010 to 20,791 in FY 2016.



Due to the rapid growth of complaints, current funding is sufficient to investigate only ten percent of maltreatment complaints and one percent of provider self-reports alleging maltreatment. OHFC prioritizes current caseload based on severity of complaints, and is only able to investigate complaints alleging actual harm due to funding constraints. Failing to investigate the vast majority of complaints has serious consequences for vulnerable adults and their families:

**Thousands of complaints are not investigated so maltreatment continues, and less severe issues may escalate to more serious harm.** Complaints received in FY 2016 that did not result in serious harm and therefore were not investigated include:

- 4,128 falls
- 275 drug diversion
- 986 medication mismanagement
- 2,867 unexplained injuries
- 341 unexplained fractures
- 963 abuse by staff
- 965 emotional abuse by staff
- 4,031 resident to resident altercations

If less serious issues like these were addressed early on, individuals might not be seriously harmed in subsequent incidents. For example, one resident at a nursing home had numerous falls which did not result in any serious injury. No investigation was conducted and the resident continued to fall. Eventually one of the subsequent falls led to a serious injury and death.

**Family members are not notified about the status and results of an investigation in a timely manner.** Current law requires notifying complainants five days after an allegation of maltreatment is made about whether an investigation will be conducted. Unfortunately, it takes three weeks to review allegations and notify complainants. Investigations are supposed to be completed within 60 days but it takes two or three weeks to get an investigator on site and six to eight months to complete an investigation. As a result, only 15% of investigations are completed within 60 days. This deprives family members of knowing what is going on with their loved ones and also knowing whether they should intervene on their behalf. Further, because of the time it takes to complete investigations, the public does not know about complaints occurring in facilities where their loved ones live.

*Facilities aren't required to make the changes necessary to protect vulnerable adults.* Nursing homes are required to report to OHFC if an incident occurred and what changes the nursing home is making to eliminate this problem. At current staffing levels, OHFC can only verify that changes were made on about five percent of these self-reports. For 95% of reports received, OHFC must take the word of the facility that corrective actions were made. Subsequent surveys often find changes were not made or were not effective. In some situations, facility employees are the perpetrators of maltreatment. When OHFC is unable to adequately investigate complaints, the employees identified as alleged perpetrators could continue to abuse, neglect, or exploit vulnerable adults.

**Total Maltreatment Complaint Allegations Received, Total Investigated and Total Not Investigated**

	Total Complaint Allegations	Total Complaint Allegations Not Investigated	Percent of Complaint Allegations Not Investigated	Total Complaint Allegations Assigned for an Onsite Investigation	Percent Investigated Onsite
SFY10	493	133	27%	360	73%
SFY11	1,137	622	55%	515	45%
SFY12	1,223	787	64%	436	36%
SFY13	1,835	1,343	73%	492	27%
SFY14	1,816	1,280	70%	536	30%
SFY15	2,665	2,139	80%	526	20%
SFY16	3,419	3,071	90%	348	10%

**Total Maltreatment Provider Self-Report Allegations Received, Total Investigated and Total Not Investigated**

	Total Provider Self-Reports Allegations Received	Total Provider Self-Reports Allegations Not Investigated	Percent of Provider Self-Reports Allegations Not Investigated	Total Provider Self-Reports Allegations Assigned for an Onsite Investigation	Percent Provider Self-Reports Investigated Onsite
SFY10	3,115	2,884	93%	231	7%
SFY11	11,686	11,351	97%	335	3%
SFY12	15,444	15,120	98%	324	2%
SFY13	18,289	18,082	99%	207	1%
SFY14	18,233	18,006	99%	227	1%
SFY15	14,289	14,162	99%	127	1%
SFY16	20,791	20,689	99%	102	1%

**Proposal:**

This proposal increases the Office of Health Facility Complaints (OHFC) by 23 positions over four years – from 45 currently, up to 68 full time equivalents. Once fully phased in, the additional staffing capacity will allow OHFC to:

- Greatly increase the number of complaints investigated and the portion investigated on site
- Complete more notifications and investigations within statutory timeframes
- Develop more efficient and streamlined processes so that more staff time can be devoted to conducting investigations, communicating with families, and helping providers correct problems and improve care.

Since OHFC is funded by a mix of state general fund, federal Medicare and Medicaid dollars, and licensing fees paid by providers, the proposal is funded by a mix of these same sources. Together, nursing homes and home care providers account for 94 percent of complaints to OHFC, therefore the proposal is partially supported by increasing fees paid by these two provider types by 10 percent effective July 1, 2017, and by another 5 percent effective July 1, 2019. Regulation of federally-certified nursing homes is partially supported by federal Medicare and Medicaid funds. Since the federal funds that support nursing home regulation do not automatically increase with the commitment of more state resources, and because federal allocations for this program are not set until nine months after our state fiscal year begins, the proposal assumes a corresponding increase in federal participation would not begin until FY 2019. If we are not successful in obtaining the increased federal participation

assumed in this proposal, the OHFC expansion would be limited to 16 additional staff over four years, reducing the number of additional complaints that could be investigated in a timely manner. Because nursing facilities can include the cost of regulatory fees in payments they receive from Medicaid, there is a fiscal impact to the state's Medical Assistance program associated with this proposal, which is reflected in the Governor's recommendations for the Department of Human Services.

The following tables summarize the fee increases needed to support the proposal:

Home Care	Current Fee	Fee Increase 7/1/2017	New Fee 7/1/2017	Fee Increase 7/1/2019	New Fee 7/1/2019
greater than \$1,500,000	\$6,625	\$662	\$7,287	\$364	\$7,651
greater than \$1,275,000 and no more than \$1,500,000	\$5,797	\$579	\$6,376	\$319	\$6,695
greater than \$1,100,000 and no more than \$1,275,000	\$4,969	\$497	\$5,466	\$273	\$5,739
greater than \$950,000 and no more than \$1,100,000	\$4,141	\$414	\$4,555	\$228	\$4,783
greater than \$850,000 and no more than \$950,000	\$3,727	\$372	\$4,099	\$205	\$4,304
greater than \$750,000 and no more than \$850,000	\$3,313	\$331	\$3,644	\$182	\$3,826
greater than \$650,000 and no more than \$750,000	\$2,898	\$290	\$3,188	\$159	\$3,347
greater than \$550,000 and no more than \$650,000	\$2,485	\$248	\$2,733	\$137	\$2,870
greater than \$450,000 and no more than \$550,000	\$2,070	\$207	\$2,277	\$114	\$2,391
greater than \$350,000 and no more than \$450,000	\$1,656	\$166	\$1,822	\$91	\$1,913
greater than \$250,000 and no more than \$350,000	\$1,242	\$124	\$1,366	\$68	\$1,434
greater than \$100,000 and no more than \$250,000	\$828	\$83	\$911	\$46	\$957
greater than \$50,000 and no more than \$100,000	\$500	\$50	\$550	\$27	\$577
greater than \$25,000 and no more than \$50,000	\$400	\$40	\$440	\$22	\$462
No more than \$25,000	\$200	\$20	\$220	\$11	\$231
Nursing Home	Current Fee	Fee Increase 7/1/2017	New Fee 7/1/2017	Fee Increase 7/1/2019	New Fee 7/1/2019
Nursing home per bed fee	\$91	\$9	\$100	\$5	\$105

#### IT Related Proposals:

The proposal includes one-time funding in FY 2019 and FY 2020 for technical support to create more efficient, automated processes.

#### Results:

With the additional staff recommended through this proposal, OHFC will be able to increase the number of investigations, investigate more allegations of lesser harm which could prevent serious harm from occurring, and complete more investigations within statutory timeframes. This will result in safer and healthier environments for vulnerable adults, health care providers being able to focus on improving the overall care provided to vulnerable adults, and facility employees being better able to perform their jobs. The families of vulnerable adults will have more confidence that their loved ones are receiving the best care possible. The families searching for health care providers will have the most current information to help select a safe setting for their loved ones.

#### Statutory Change(s):

None.