

HB0077S02 compared with HB0077S01

~~text~~ shows text that was in HB0077S01 but was deleted in HB0077S02.

inserted text shows text that was not in HB0077S01 but was inserted into HB0077S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative David Clark proposes the following substitute bill:

MEDICAL ASSISTANCE ACCOUNTABILITY

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah Health Code relating to management and oversight of the state's Medicaid and medical assistance programs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that an inspector general of Medicaid ~~Services~~services or the director of the Office of Internal Audit and Program Integrity ~~is~~shall designate and oversee the presiding officer in certain administrative appeal proceedings relating to Medicaid funds or services;
- ▶ describes other requirements relating to certain Medicaid related administrative appeal proceedings;

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- ▶ describes duties and reporting requirements for the division relating to management and oversight of the state's Medicaid and medical assistance programs;
- ▶ places the Utah Office of Internal Audit and Program Integrity directly under the executive director of the Department of Health; and
- ▶ provides the Utah Office of Internal Audit and Program Integrity with full access to the records of the Division of Health Care Financing.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

Utah Code Sections Affected:

ENACTS:

26-18-601, Utah Code Annotated 1953

26-18-602, Utah Code Annotated 1953

26-18-603, Utah Code Annotated 1953

26-18-604, Utah Code Annotated 1953

26-18-605, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-18-601** is enacted to read:

Part 6. MEDICAL ASSISTANCE ACCOUNTABILITY

26-18-601. Title.

This part is known as "Medical Assistance Accountability."

Section 2. Section **26-18-602** is enacted to read:

26-18-602. Definitions.

As used in this part:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

(ii) results, or may result, in unnecessary Medicaid related costs or other medical or hospital assistance costs; or

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(b) reckless or negligent upcoding.

(2) "Auditor's Office" means the Office of Internal Audit and Program Integrity, within the department.

(3) "Fraud" means intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, ~~fa~~ ~~claim~~ ~~claims~~, reimbursement, or practice; or

(b) deception or misrepresentation in relation to medical or hospital assistance funds, costs, ~~fa~~ ~~claim~~ ~~claims~~, reimbursement, or practice.

(4) "Medical or hospital assistance" is as defined in Section 26-18-2.

(5) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service would result in a lower Medicaid payment or reimbursement.

(6) "Waste" means overutilization of resources or inappropriate payment.

Section 3. Section **26-18-603** is enacted to read:

26-18-603. Adjudicative proceedings related to Medicaid funds.

(1) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to recovery of Medicaid funds:

(a) the presiding officer shall be:

~~_____ (i) if an Office of Inspector General of Medicaid Services is created by statute:~~

~~_____ (A) the inspector general of Medicaid Services; or~~

~~_____ (B) a designee of the inspector general of Medicaid Services who is an employee of the Office of Inspector General of Medicaid Services; or~~

~~_____ (ii) if an Office of Inspector General of Medicaid Services is not created by statute:~~

~~_____ (A) the ~~designated by and report directly to the executive~~ director of the ~~Office of Internal Audit and Program Integrity~~; or~~

~~_____ (B) a designee of the director of the Office of Internal Audit and Program Integrity who is an employee ~~department or the director~~ of the Office of Internal Audit and Program Integrity; and~~

(b) the decision of the presiding officer is the recommended decision to the executive director of the department or a designee of the executive director who is not in the division.

(2) Subsection (1) does not apply to hearings conducted by the Department of

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Workforce Services relating to medical assistance eligibility determinations.

(3) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to Medicaid or Medicaid funds, the following may attend and present evidence or testimony at the proceeding:

(a) the director of the Office of Internal Audit and Program Integrity, or the director's designee; and

(b) the inspector general of Medicaid services, if an Office of Inspector General of Medicaid Services is created by statute, or the inspector general's designee.

(4) In relation to a proceeding of the department under Title 63G, Chapter 4, Administrative Procedures Act, a person may not, outside of the actual proceeding, attempt to influence the decision of the presiding officer.

Section 4. Section **26-18-604** is enacted to read:

26-18-604. Division duties -- Reporting.

(1) The division shall:

(a) develop and implement procedures relating to Medicaid funds and medical or hospital assistance funds to ensure that providers do not receive:

(i) duplicate payments for the same goods or services;

(ii) payment for goods or services by resubmitting a claim for which:

(A) payment has been disallowed on the grounds that payment would be a violation of federal or state law, administrative rule, or the state plan; and

(B) the decision to disallow the payment has become final;

(iii) payment for goods or services provided after a recipient's death, including payment for pharmaceuticals or long-term care; or

(iv) payment for transporting an unborn infant;

(b) consult with the Centers for Medicaid and Medicare Services, other states, and the Office of Inspector General for Medicaid Services, if one is created by statute, to determine and implement best practices for discovering and eliminating fraud, waste, and abuse of Medicaid funds and medical or hospital assistance funds;

(c) actively seek repayment from providers for improperly used or paid:

(i) Medicaid funds; and

(ii) medical or hospital assistance funds;

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(d) coordinate, track, and keep records of all division efforts to obtain repayment of the funds described in Subsection (1)(c), and the results of those efforts;

(e) keep Medicaid pharmaceutical costs as low as possible by actively seeking to obtain pharmaceuticals at the lowest price possible, including, on a quarterly basis for the pharmaceuticals that represent the highest 45% of state Medicaid expenditures for pharmaceuticals~~;~~ and on an annual basis for the remaining pharmaceuticals:

(i) tracking changes in the price of pharmaceuticals;

(ii) checking the availability and price of generic drugs;

(iii) reviewing and updating the state's maximum allowable cost list; and

(iv) comparing pharmaceutical costs of the state Medicaid program to available pharmacy price lists; and

(f) provide training, on an annual basis, to the employees of the division who make decisions on billing codes, or who are in the best position to observe and identify upcoding, in order to avoid and detect upcoding.

(2) At the October 2011 interim meeting of the Health and Human Services Interim Committee, the division shall report on the measures taken by the division to correct the problems identified in, and to implement the recommendations made in, the December 2010 Performance Audit of Utah Medicaid Provider Cost Control published by the [Office of Legislative Auditor General](#).

(3) Beginning in 2012, the division shall annually, before September 1, report to and provide the Health and Human Services Interim Committee with information, including statistical information, for the preceding fiscal year, regarding:

(a) incidents of improperly used or paid Medicaid funds and medical or hospital assistance funds;

(b) division efforts to obtain repayment from providers of the funds described in Subsection (3)(a);

(c) all repayments made of funds described in Subsection (3)(a), including the total amount recovered; and

(d) the division's compliance with the recommendations made in the December 2010 Performance Audit of Utah Medicaid Provider Cost Control published by the [Office of Legislative Auditor General](#).

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Section 5. Section **26-18-605** is enacted to read:

26-18-605. Utah Office of Internal Audit and Program Integrity.

The Utah Office of Internal Audit and Program integrity:

(1) may not be placed within the division;

(2) shall be placed directly under, and report directly to, the executive director of the

Department of Health; and

(3) shall have full access to all records of the division.

Section 6. **Effective date.**

This bill takes effect on July 1, 2011.