

Representative David Clark proposes the following substitute bill:

**OFFICE OF INSPECTOR GENERAL OF MEDICAID
SERVICES**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates, within the governor's office, the Office of Inspector General of Medicaid Services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates, within the governor's office, the Office of Inspector General of Medicaid Services (office);
- ▶ describes and provides for the qualifications, appointment, term of office, and removal of the Inspector General of Medicaid Services (inspector general);
- ▶ describes the duties and powers of the inspector general and the office;
- ▶ requires the inspector general to enter into a memorandum of understanding with the Medicaid Fraud Control Unit of the attorney general's office (fraud unit);
- ▶ requires the office to annually select and review a representative sample of claims submitted for reimbursement under the state Medicaid program to determine whether fraud, waste, or abuse occurred;
- ▶ provides for the transfer of FTEs from the Department of Health to the governor's



26 office to staff the office;

27 ▶ establishes a process where the inspector general can order a hold on the payment of
28 a claim for reimbursement submitted by a claimant if there is reasonable cause to
29 believe that the claim, or payment of the claim, constitutes fraud, waste, or abuse, or
30 is otherwise inaccurate;

31 ▶ grants the office full access to records and employees when investigating or auditing
32 the use or expenditure of Medicaid funds or the provision of services;

33 ▶ requires the Department of Health, the Division of Health Care Financing, and
34 others to fully cooperate with and support the inspector general and the office in
35 fulfilling the duties of the inspector general and the office;

36 ▶ prohibits a person from interfering with or impeding an investigation or audit of the
37 office or fraud unit and from interfering with the content or conclusion of a report;

38 ▶ grants subpoena power to the inspector general;

39 ▶ requires a health care professional, a Medicaid provider, and a state or local
40 government official or employee to report any Medicaid fraud, waste, or abuse of
41 which they become aware;

42 ▶ requires the inspector general to, on an annual basis, prepare a written report on the
43 activities of the office for the preceding fiscal year, to provide the report to the
44 governor, and to provide and present the report to the Executive Appropriations
45 Committee of the Legislature;

46 ▶ requires the provision of contract services to the office by the attorney general's
47 office and the Division of Health Care Financing;

48 ▶ classifies certain records relating to an investigation or audit by the office as
49 protected; and

50 ▶ makes technical changes.

51 **Money Appropriated in this Bill:**

52 This bill appropriates, as ongoing appropriations:

53 ▶ to Department of Health - Executive Director's Operations:

54 • from the General Fund, \$(694,900);

55 • from the Federal Fund, \$(1,037,000); and

56 • from Revenue Transfers - Within Agency, \$(81,500);

- 57 ▶ to Medicaid Mandatory Services:
- 58 • from the General Fund, \$(300,000); and
- 59 • from the Federal Fund, \$(519,100); and
- 60 ▶ to Office of Inspector General of Medicaid Services:
- 61 • from the General Fund, \$994,900;
- 62 • from the Federal Fund, \$1,556,100; and
- 63 • from Revenue Transfers - Health, \$81,500.

64 **Other Special Clauses:**

65 This bill takes effect on July 1, 2011.

66 **Utah Code Sections Affected:**

67 AMENDS:

- 68 **26-18-2.3**, as last amended by Laws of Utah 2010, Chapter 149
- 69 **26-18-3**, as last amended by Laws of Utah 2010, Chapters 149, 323, 340, and 391
- 70 **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247
- 71 **63I-2-263**, as last amended by Laws of Utah 2010, Chapter 224

72 ENACTS:

- 73 **63M-12-101**, Utah Code Annotated 1953
- 74 **63M-12-102**, Utah Code Annotated 1953
- 75 **63M-12-201**, Utah Code Annotated 1953
- 76 **63M-12-202**, Utah Code Annotated 1953
- 77 **63M-12-203**, Utah Code Annotated 1953
- 78 **63M-12-204**, Utah Code Annotated 1953
- 79 **63M-12-205**, Utah Code Annotated 1953
- 80 **63M-12-206**, Utah Code Annotated 1953
- 81 **63M-12-207**, Utah Code Annotated 1953
- 82 **63M-12-301**, Utah Code Annotated 1953
- 83 **63M-12-302**, Utah Code Annotated 1953
- 84 **63M-12-303**, Utah Code Annotated 1953
- 85 **63M-12-304**, Utah Code Annotated 1953
- 86 **63M-12-401**, Utah Code Annotated 1953
- 87 **63M-12-501**, Utah Code Annotated 1953

88 **63M-12-502**, Utah Code Annotated 1953

89 **63M-12-601**, Utah Code Annotated 1953



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

92 Section 1. Section **26-18-2.3** is amended to read:

93 **26-18-2.3. Division responsibilities -- Emphasis -- Periodic assessment.**

94 (1) In accordance with the requirements of Title XIX of the Social Security Act and
95 applicable federal regulations, the division is responsible for the effective and impartial
96 administration of this chapter in an efficient, economical manner. The division shall:

97 (a) establish, on a statewide basis, a program to safeguard against unnecessary or
98 inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate
99 hospital admissions or lengths of stay;

100 (b) deny any provider claim for services that fail to meet criteria established by the
101 division concerning medical necessity or appropriateness; and

102 (c) place its emphasis on high quality care to recipients in the most economical and
103 cost-effective manner possible, with regard to both publicly and privately provided services.

104 (2) The division shall implement and utilize cost-containment methods, where
105 possible, which may include:

106 (a) prepayment and postpayment review systems to determine if utilization is
107 reasonable and necessary;

108 (b) preadmission certification of nonemergency admissions;

109 (c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;

110 (d) second surgical opinions;

111 (e) procedures for encouraging the use of outpatient services;

112 (f) consistent with Sections 26-18-2.4 and 58-17b-606, a Medicaid drug program;

113 (g) coordination of benefits; and

114 (h) review and exclusion of providers who are not cost effective or who have abused
115 the Medicaid program, in accordance with the procedures and provisions of federal law and
116 regulation.

117 (3) The director of the division shall periodically assess the cost effectiveness and
118 health implications of the existing Medicaid program, and consider alternative approaches to

119 the provision of covered health and medical services through the Medicaid program, in order to
120 reduce unnecessary or unreasonable utilization.

121 (4) The department shall ensure Medicaid program integrity by conducting internal
122 audits of the Medicaid program for efficiencies, best practices, fraud, waste, abuse, and cost
123 recovery~~[, at least in proportion to the percent of funding for the program that comes from state~~
124 ~~funds]~~.

125 (5) The department shall, by December 31 of each year, report to the Health and
126 Human Services Appropriations Subcommittee regarding:

127 (a) measures taken under this section to increase:

128 (i) efficiencies within the program; and

129 (ii) cost avoidance and cost recovery efforts in the program; and

130 (b) results of program integrity efforts under Subsection (4).

131 Section 2. Section **26-18-3** is amended to read:

132 **26-18-3. Administration of Medicaid program by department -- Reporting to the**
133 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**
134 **standards -- Internal audits -- Studies -- Health opportunity accounts.**

135 (1) The department shall be the single state agency responsible for the administration
136 of the Medicaid program in connection with the United States Department of Health and
137 Human Services pursuant to Title XIX of the Social Security Act.

138 (2) (a) The department shall implement the Medicaid program through administrative
139 rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking
140 Act, the requirements of Title XIX, and applicable federal regulations.

141 (b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules
142 necessary to implement the program:

143 (i) the standards used by the department for determining eligibility for Medicaid
144 services;

145 (ii) the services and benefits to be covered by the Medicaid program; and

146 (iii) reimbursement methodologies for providers under the Medicaid program.

147 (3) (a) The department shall, in accordance with Subsection (3)(b), report to the Health
148 and Human Services Appropriations Subcommittee when the department:

149 (i) implements a change in the Medicaid State Plan;

- 150 (ii) initiates a new Medicaid waiver;
- 151 (iii) initiates an amendment to an existing Medicaid waiver;
- 152 (iv) applies for an extension of an application for a waiver or an existing Medicaid
153 waiver; or
- 154 (v) initiates a rate change that requires public notice under state or federal law.
- 155 (b) The report required by Subsection (3)(a) shall:
- 156 (i) be submitted to the Health and Human Services Appropriations Subcommittee prior
157 to the department implementing the proposed change; and
- 158 (ii) include:
- 159 (A) a description of the department's current practice or policy that the department is
160 proposing to change;
- 161 (B) an explanation of why the department is proposing the change;
- 162 (C) the proposed change in services or reimbursement, including a description of the
163 effect of the change;
- 164 (D) the effect of an increase or decrease in services or benefits on individuals and
165 families;
- 166 (E) the degree to which any proposed cut may result in cost-shifting to more expensive
167 services in health or human service programs; and
- 168 (F) the fiscal impact of the proposed change, including:
- 169 (I) the effect of the proposed change on current or future appropriations from the
170 Legislature to the department;
- 171 (II) the effect the proposed change may have on federal matching dollars received by
172 the state Medicaid program;
- 173 (III) any cost shifting or cost savings within the department's budget that may result
174 from the proposed change; and
- 175 (IV) identification of the funds that will be used for the proposed change, including any
176 transfer of funds within the department's budget.
- 177 (4) (a) The Department of Human Services shall report to the Legislative Health and
178 Human Services Appropriations Subcommittee no later than December 31, 2010 in accordance
179 with Subsection (4)(b).
- 180 (b) The report required by Subsection (4)(a) shall include:

181 (i) changes made by the division or the department beginning July 1, 2010 that effect
182 the Medicaid program, a waiver under the Medicaid program, or an interpretation of Medicaid
183 services or funding, that relate to care for children and youth in the custody of the Division of
184 Child and Family Services or the Division of Juvenile Justice Services;

185 (ii) the history and impact of the changes under Subsection (4)(b)(i);

186 (iii) the Department of Human Service's plans for addressing the impact of the changes
187 under Subsection (4)(b)(i); and

188 (iv) ways to consolidate administrative functions within the Department of Human
189 Services, the Department of Health, the Division of Child and Family Services, and the
190 Division of Juvenile Justice Services to more efficiently meet the needs of children and youth
191 with mental health and substance disorder treatment needs.

192 (5) Any rules adopted by the department under Subsection (2) are subject to review and
193 reauthorization by the Legislature in accordance with Section 63G-3-502.

194 (6) The department may, in its discretion, contract with the Department of Human
195 Services or other qualified agencies for services in connection with the administration of the
196 Medicaid program, including:

197 (a) the determination of the eligibility of individuals for the program;

198 (b) recovery of overpayments; and

199 (c) consistent with Section 26-20-13, and to the extent permitted by law and quality
200 control services, enforcement of fraud and abuse laws.

201 (7) The department shall provide, by rule, disciplinary measures and sanctions for
202 Medicaid providers who fail to comply with the rules and procedures of the program, provided
203 that sanctions imposed administratively may not extend beyond:

204 (a) termination from the program;

205 (b) recovery of claim reimbursements incorrectly paid; and

206 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

207 (8) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX
208 of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to
209 be used by the division in accordance with the requirements of Section 1919 of Title XIX of
210 the federal Social Security Act.

211 (9) (a) In determining whether an applicant or recipient is eligible for a service or

212 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department
213 shall, if Subsection (9)(b) is satisfied, exclude from consideration one passenger vehicle
214 designated by the applicant or recipient.

215 (b) Before Subsection (9)(a) may be applied:

216 (i) the federal government must:

217 (A) determine that Subsection (9)(a) may be implemented within the state's existing
218 public assistance-related waivers as of January 1, 1999;

219 (B) extend a waiver to the state permitting the implementation of Subsection (9)(a); or

220 (C) determine that the state's waivers that permit dual eligibility determinations for
221 cash assistance and Medicaid are no longer valid; and

222 (ii) the department must determine that Subsection (9)(a) can be implemented within
223 existing funding.

224 (10) (a) For purposes of this Subsection (10):

225 (i) "aged, blind, or disabled" shall be defined by administrative rule; and

226 (ii) "spend down" means an amount of income in excess of the allowable income
227 standard that must be paid in cash to the department or incurred through the medical services
228 not paid by Medicaid.

229 (b) In determining whether an applicant or recipient who is aged, blind, or disabled is
230 eligible for a service or benefit under this chapter, the department shall use 100% of the federal
231 poverty level as:

232 (i) the allowable income standard for eligibility for services or benefits; and

233 (ii) the allowable income standard for eligibility as a result of spend down.

234 (11) The department shall conduct internal audits of the Medicaid program[~~in~~
235 ~~proportion to at least the level of funding it receives from Medicaid to conduct internal audits].~~

236 (12) In order to determine the feasibility of contracting for direct Medicaid providers
237 for primary care services, the department shall:

238 (a) issue a request for information for direct contracting for primary services that shall
239 provide that a provider shall exclusively serve all Medicaid clients:

240 (i) in a geographic area;

241 (ii) for a defined range of primary care services; and

242 (iii) for a predetermined total contracted amount; and

243 (b) by February 1, 2011, report to the Health and Human Services Appropriations
244 Subcommittee on the response to the request for information under Subsection (12)(a).

245 (13) (a) By December 31, 2010, the department shall:

246 (i) determine the feasibility of implementing a three year patient-centered medical
247 home demonstration project in an area of the state using existing budget funds; and

248 (ii) report the department's findings and recommendations under Subsection (13)(a)(i)
249 to the Health and Human Services Appropriations Subcommittee.

250 (b) If the department determines that the medical home demonstration project
251 described in Subsection (13)(a) is feasible, and the Health and Human Services Appropriations
252 Subcommittee recommends that the demonstration project be implemented, the department
253 shall:

254 (i) implement the demonstration project; and

255 (ii) by December 1, 2012, make recommendations to the Health and Human Services
256 Appropriations Subcommittee regarding the:

257 (A) continuation of the demonstration project;

258 (B) expansion of the demonstration project to other areas of the state; and

259 (C) cost savings incurred by the implementation of the demonstration project.

260 (14) (a) The department may apply for and, if approved, implement a demonstration
261 program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

262 (b) A health opportunity account established under Subsection (14)(a) shall be an
263 alternative to the existing benefits received by an individual eligible to receive Medicaid under
264 this chapter.

265 (c) Subsection (14)(a) is not intended to expand the coverage of the Medicaid program.

266 Section 3. Section **63G-2-305** is amended to read:

267 **63G-2-305. Protected records.**

268 The following records are protected if properly classified by a governmental entity:

269 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
270 has provided the governmental entity with the information specified in Section 63G-2-309;

271 (2) commercial information or nonindividual financial information obtained from a
272 person if:

273 (a) disclosure of the information could reasonably be expected to result in unfair

274 competitive injury to the person submitting the information or would impair the ability of the
275 governmental entity to obtain necessary information in the future;

276 (b) the person submitting the information has a greater interest in prohibiting access
277 than the public in obtaining access; and

278 (c) the person submitting the information has provided the governmental entity with
279 the information specified in Section 63G-2-309;

280 (3) commercial or financial information acquired or prepared by a governmental entity
281 to the extent that disclosure would lead to financial speculations in currencies, securities, or
282 commodities that will interfere with a planned transaction by the governmental entity or cause
283 substantial financial injury to the governmental entity or state economy;

284 (4) records the disclosure of which could cause commercial injury to, or confer a
285 competitive advantage upon a potential or actual competitor of, a commercial project entity as
286 defined in Subsection 11-13-103(4);

287 (5) test questions and answers to be used in future license, certification, registration,
288 employment, or academic examinations;

289 (6) records the disclosure of which would impair governmental procurement
290 proceedings or give an unfair advantage to any person proposing to enter into a contract or
291 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
292 Subsection (6) does not restrict the right of a person to have access to, once the contract or
293 grant has been awarded, a bid, proposal, or application submitted to or by a governmental
294 entity in response to:

295 (a) a request for bids;

296 (b) a request for proposals;

297 (c) a grant; or

298 (d) other similar document;

299 (7) records that would identify real property or the appraisal or estimated value of real
300 or personal property, including intellectual property, under consideration for public acquisition
301 before any rights to the property are acquired unless:

302 (a) public interest in obtaining access to the information outweighs the governmental
303 entity's need to acquire the property on the best terms possible;

304 (b) the information has already been disclosed to persons not employed by or under a

305 duty of confidentiality to the entity;

306 (c) in the case of records that would identify property, potential sellers of the described
307 property have already learned of the governmental entity's plans to acquire the property;

308 (d) in the case of records that would identify the appraisal or estimated value of
309 property, the potential sellers have already learned of the governmental entity's estimated value
310 of the property; or

311 (e) the property under consideration for public acquisition is a single family residence
312 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
313 the property as required under Section 78B-6-505;

314 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
315 compensated transaction of real or personal property including intellectual property, which, if
316 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
317 of the subject property, unless:

318 (a) the public interest in access outweighs the interests in restricting access, including
319 the governmental entity's interest in maximizing the financial benefit of the transaction; or

320 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
321 the value of the subject property have already been disclosed to persons not employed by or
322 under a duty of confidentiality to the entity;

323 (9) records created or maintained for civil, criminal, or administrative enforcement
324 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
325 release of the records:

326 (a) reasonably could be expected to interfere with investigations undertaken for
327 enforcement, discipline, licensing, certification, or registration purposes;

328 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
329 proceedings;

330 (c) would create a danger of depriving a person of a right to a fair trial or impartial
331 hearing;

332 (d) reasonably could be expected to disclose the identity of a source who is not
333 generally known outside of government and, in the case of a record compiled in the course of
334 an investigation, disclose information furnished by a source not generally known outside of
335 government if disclosure would compromise the source; or

336 (e) reasonably could be expected to disclose investigative or audit techniques,
337 procedures, policies, or orders not generally known outside of government if disclosure would
338 interfere with enforcement or audit efforts;

339 (10) records the disclosure of which would jeopardize the life or safety of an
340 individual;

341 (11) records the disclosure of which would jeopardize the security of governmental
342 property, governmental programs, or governmental recordkeeping systems from damage, theft,
343 or other appropriation or use contrary to law or public policy;

344 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
345 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
346 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

347 (13) records that, if disclosed, would reveal recommendations made to the Board of
348 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
349 Board of Pardons and Parole, or the Department of Human Services that are based on the
350 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
351 jurisdiction;

352 (14) records and audit workpapers that identify audit, collection, and operational
353 procedures and methods used by the State Tax Commission, if disclosure would interfere with
354 audits or collections;

355 (15) records of a governmental audit agency relating to an ongoing or planned audit
356 until the final audit is released;

357 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
358 litigation that are not available under the rules of discovery;

359 (17) records disclosing an attorney's work product, including the mental impressions or
360 legal theories of an attorney or other representative of a governmental entity concerning
361 litigation;

362 (18) records of communications between a governmental entity and an attorney
363 representing, retained, or employed by the governmental entity if the communications would be
364 privileged as provided in Section 78B-1-137;

365 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
366 from a member of the Legislature; and

367 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
368 legislative action or policy may not be classified as protected under this section; and
369 (b) (i) an internal communication that is part of the deliberative process in connection
370 with the preparation of legislation between:
371 (A) members of a legislative body;
372 (B) a member of a legislative body and a member of the legislative body's staff; or
373 (C) members of a legislative body's staff; and
374 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
375 legislative action or policy may not be classified as protected under this section;
376 (20) (a) records in the custody or control of the Office of Legislative Research and
377 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
378 legislation or contemplated course of action before the legislator has elected to support the
379 legislation or course of action, or made the legislation or course of action public; and
380 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
381 Office of Legislative Research and General Counsel is a public document unless a legislator
382 asks that the records requesting the legislation be maintained as protected records until such
383 time as the legislator elects to make the legislation or course of action public;
384 (21) research requests from legislators to the Office of Legislative Research and
385 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
386 in response to these requests;
387 (22) drafts, unless otherwise classified as public;
388 (23) records concerning a governmental entity's strategy about collective bargaining or
389 pending litigation;
390 (24) records of investigations of loss occurrences and analyses of loss occurrences that
391 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
392 Uninsured Employers' Fund, or similar divisions in other governmental entities;
393 (25) records, other than personnel evaluations, that contain a personal recommendation
394 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
395 personal privacy, or disclosure is not in the public interest;
396 (26) records that reveal the location of historic, prehistoric, paleontological, or
397 biological resources that if known would jeopardize the security of those resources or of

398 valuable historic, scientific, educational, or cultural information;

399 (27) records of independent state agencies if the disclosure of the records would
400 conflict with the fiduciary obligations of the agency;

401 (28) records of an institution within the state system of higher education defined in
402 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
403 retention decisions, and promotions, which could be properly discussed in a meeting closed in
404 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
405 the final decisions about tenure, appointments, retention, promotions, or those students
406 admitted, may not be classified as protected under this section;

407 (29) records of the governor's office, including budget recommendations, legislative
408 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
409 policies or contemplated courses of action before the governor has implemented or rejected
410 those policies or courses of action or made them public;

411 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
412 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
413 recommendations in these areas;

414 (31) records provided by the United States or by a government entity outside the state
415 that are given to the governmental entity with a requirement that they be managed as protected
416 records if the providing entity certifies that the record would not be subject to public disclosure
417 if retained by it;

418 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
419 except as provided in Section 52-4-206;

420 (33) records that would reveal the contents of settlement negotiations but not including
421 final settlements or empirical data to the extent that they are not otherwise exempt from
422 disclosure;

423 (34) memoranda prepared by staff and used in the decision-making process by an
424 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
425 other body charged by law with performing a quasi-judicial function;

426 (35) records that would reveal negotiations regarding assistance or incentives offered
427 by or requested from a governmental entity for the purpose of encouraging a person to expand
428 or locate a business in Utah, but only if disclosure would result in actual economic harm to the

429 person or place the governmental entity at a competitive disadvantage, but this section may not
430 be used to restrict access to a record evidencing a final contract;

431 (36) materials to which access must be limited for purposes of securing or maintaining
432 the governmental entity's proprietary protection of intellectual property rights including patents,
433 copyrights, and trade secrets;

434 (37) the name of a donor or a prospective donor to a governmental entity, including an
435 institution within the state system of higher education defined in Section 53B-1-102, and other
436 information concerning the donation that could reasonably be expected to reveal the identity of
437 the donor, provided that:

438 (a) the donor requests anonymity in writing;

439 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
440 classified protected by the governmental entity under this Subsection (37); and

441 (c) except for an institution within the state system of higher education defined in
442 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
443 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
444 over the donor, a member of the donor's immediate family, or any entity owned or controlled
445 by the donor or the donor's immediate family;

446 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
447 73-18-13;

448 (39) a notification of workers' compensation insurance coverage described in Section
449 34A-2-205;

450 (40) (a) the following records of an institution within the state system of higher
451 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
452 or received by or on behalf of faculty, staff, employees, or students of the institution:

453 (i) unpublished lecture notes;

454 (ii) unpublished notes, data, and information:

455 (A) relating to research; and

456 (B) of:

457 (I) the institution within the state system of higher education defined in Section
458 53B-1-102; or

459 (II) a sponsor of sponsored research;

460 (iii) unpublished manuscripts;
461 (iv) creative works in process;
462 (v) scholarly correspondence; and
463 (vi) confidential information contained in research proposals;
464 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
465 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
466 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
467 (41) (a) records in the custody or control of the Office of Legislative Auditor General
468 that would reveal the name of a particular legislator who requests a legislative audit prior to the
469 date that audit is completed and made public; and
470 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
471 Office of the Legislative Auditor General is a public document unless the legislator asks that
472 the records in the custody or control of the Office of Legislative Auditor General that would
473 reveal the name of a particular legislator who requests a legislative audit be maintained as
474 protected records until the audit is completed and made public;
475 (42) records that provide detail as to the location of an explosive, including a map or
476 other document that indicates the location of:
477 (a) a production facility; or
478 (b) a magazine;
479 (43) information:
480 (a) contained in the statewide database of the Division of Aging and Adult Services
481 created by Section 62A-3-311.1; or
482 (b) received or maintained in relation to the Identity Theft Reporting Information
483 System (IRIS) established under Section 67-5-22;
484 (44) information contained in the Management Information System and Licensing
485 Information System described in Title 62A, Chapter 4a, Child and Family Services;
486 (45) information regarding National Guard operations or activities in support of the
487 National Guard's federal mission;
488 (46) records provided by any pawn or secondhand business to a law enforcement
489 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
490 Secondhand Merchandise Transaction Information Act;

491 (47) information regarding food security, risk, and vulnerability assessments performed
492 by the Department of Agriculture and Food;

493 (48) except to the extent that the record is exempt from this chapter pursuant to Section
494 63G-2-106, records related to an emergency plan or program prepared or maintained by the
495 Division of Homeland Security the disclosure of which would jeopardize:

496 (a) the safety of the general public; or

497 (b) the security of:

498 (i) governmental property;

499 (ii) governmental programs; or

500 (iii) the property of a private person who provides the Division of Homeland Security
501 information;

502 (49) records of the Department of Agriculture and Food relating to the National
503 Animal Identification System or any other program that provides for the identification, tracing,
504 or control of livestock diseases, including any program established under Title 4, Chapter 24,
505 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
506 Quarantine;

507 (50) as provided in Section 26-39-501:

508 (a) information or records held by the Department of Health related to a complaint
509 regarding a child care program or residential child care which the department is unable to
510 substantiate; and

511 (b) information or records related to a complaint received by the Department of Health
512 from an anonymous complainant regarding a child care program or residential child care;

513 (51) unless otherwise classified as public under Section 63G-2-301 and except as
514 provided under Section 41-1a-116, an individual's home address, home telephone number, or
515 personal mobile phone number, if:

516 (a) the individual is required to provide the information in order to comply with a law,
517 ordinance, rule, or order of a government entity; and

518 (b) the subject of the record has a reasonable expectation that this information will be
519 kept confidential due to:

520 (i) the nature of the law, ordinance, rule, or order; and

521 (ii) the individual complying with the law, ordinance, rule, or order;

522 (52) the name, home address, work addresses, and telephone numbers of an individual
523 that is engaged in, or that provides goods or services for, medical or scientific research that is:

524 (a) conducted within the state system of higher education, as defined in Section
525 53B-1-102; and

526 (b) conducted using animals;

527 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
528 Private Proposal Program, to the extent not made public by rules made under that chapter;

529 (54) information collected and a report prepared by the Judicial Performance
530 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
531 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
532 the information or report;

533 (55) (a) records of the Utah Educational Savings Plan created under Section
534 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

535 (b) proposals submitted to the Utah Educational Savings Plan; and

536 (c) contracts entered into by the Utah Educational Savings Plan and the related
537 payments;

538 (56) records contained in the Management Information System created in Section
539 62A-4a-1003;

540 (57) records provided or received by the Public Lands Policy Coordinating Office in
541 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

542 (58) information requested by and provided to the Utah State 911 Committee under
543 Section 53-10-602;

544 (59) recorded Children's Justice Center investigative interviews, both video and audio,
545 the release of which are governed by Section 77-37-4; ~~and~~

546 (60) in accordance with Section 73-10-33:

547 (a) a management plan for a water conveyance facility in the possession of the Division
548 of Water Resources or the Board of Water Resources; or

549 (b) an outline of an emergency response plan in possession of the state or a county or
550 municipality[-];

551 (61) the following records in the custody or control of the Office of Inspector General
552 of Medicaid Services, created in Section 63M-12-201:

553 (a) records that would disclose information relating to allegations of personal
 554 misconduct, gross mismanagement, or illegal activity of a person if the information or
 555 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
 556 through other documents or evidence, and the records relating to the allegation are not relied
 557 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
 558 report or final audit report;

559 (b) records and audit workpapers to the extent they would disclose the identity of a
 560 person who, during the course of an investigation or audit, communicated the existence of any
 561 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
 562 regulation adopted under the laws of this state, a political subdivision of the state, or any
 563 recognized entity of the United States, if the information was disclosed on the condition that
 564 the identity of the person be protected;

565 (c) before the time that an investigation or audit is completed and the final
 566 investigation or final audit report is released, records or drafts circulated to a person who is not
 567 an employee or head of a governmental entity for the person's response or information;

568 (d) records that would disclose an outline or part of any investigation, audit survey
 569 plan, or audit program; or

570 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
 571 investigation or audit; and

572 (62) records that reveal methods used by the Office of Inspector General of Medicaid
 573 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
 574 abuse.

575 Section 4. Section **63I-2-263** is amended to read:

576 **63I-2-263. Repeal dates, Title 63A to Title 63M.**

577 (1) Subsection 63G-1-401(5) is repealed on May 10, 2011.

578 (2) Sections 63M-12-206 and 63M-12-207 are repealed on December 31, 2011.

579 Section 5. Section **63M-12-101** is enacted to read:

580 **CHAPTER 12. OFFICE OF INSPECTOR GENERAL OF MEDICAID SERVICES**

581 **Part 1. General Provisions**

582 **63M-12-101. Title.**

583 This chapter is known as "Office of Inspector General of Medicaid Services."

584 Section 6. Section **63M-12-102** is enacted to read:

585 **63M-12-102. Definitions.**

586 As used in this chapter:

587 (1) "Abuse" means:

588 (a) an action or practice that:

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

590 (ii) results, or may result, in unnecessary Medicaid related costs; or

591 (b) reckless or negligent upcoding.

592 (2) "Claimant" means a person that:

593 (a) provides a service; and

594 (b) submits a claim for Medicaid reimbursement for the service.

595 (3) "Department" means the Department of Health, created in Section 26-1-4.

596 (4) "Division" means the Division of Health Care Financing, created in Section
597 26-18-2.1.

598 (5) "Fraud" means intentional or knowing:

- 599 (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a
600 claim, reimbursement, or services; or
- 601 (b) a violation of a provision of Subsections 26-20-3 through 26-20-7.
- 602 (6) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's
603 office.
- 604 (7) "Health care professional" means a person licensed under:
- 605 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
606 (b) Title 58, Chapter 16a, Utah Optometry Practice Act;
607 (c) Title 58, Chapter 17b, Pharmacy Practice Act;
608 (d) Title 58, Chapter 24b, Physical Therapy Practice Act;
609 (e) Title 58, Chapter 31b, Nurse Practice Act;
610 (f) Title 58, Chapter 40, Recreational Therapy Practice Act;
611 (g) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act;
612 (h) Title 58, Chapter 42a, Occupational Therapy Practice Act;
613 (i) Title 58, Chapter 44a, Nurse Midwife Practice Act;
614 (j) Title 58, Chapter 49, Dietitian Certification Act;
615 (k) Title 58, Chapter 60, Mental Health Professional Practice Act;
616 (l) Title 58, Chapter 67, Utah Medical Practice Act;
617 (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
618 (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
619 (o) Title 58, Chapter 70a, Physician Assistant Act; and
620 (p) Title 58, Chapter 73, Chiropractic Physician Practice Act.
- 621 (8) "Inspector general" means the inspector general of the office, appointed under
622 Section 63M-12-201.
- 623 (9) "Office" means the Office of Inspector General of Medicaid Services, created in
624 Section 63M-12-201.
- 625 (10) "Provider" means a person that provides:
- 626 (a) medical assistance, including supplies or services, in exchange, directly or
627 indirectly, for Medicaid funds; or
- 628 (b) billing or recordkeeping services relating to Medicaid funds.
- 629 (11) "Upcoding" means assigning an inaccurate billing code for a service that is

630 payable or reimbursable by Medicaid funds, if the correct billing code for the service would
631 result in a lower Medicaid payment or reimbursement.

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

633 Section 7. Section **63M-12-201** is enacted to read:

634 **Part 2. Office Duties and Powers**

635 **63M-12-201. Creation of office -- Inspector general -- Appointment -- Term.**

636 (1) There is created, within the governor's office, the Office of Inspector General of
637 Medicaid Services.

638 (2) The governor shall appoint the inspector general, with the advice and consent of the
639 Senate.

640 (3) A person appointed as the inspector general shall:

641 (a) be a certified public accountant or a certified internal auditor; and

642 (b) have the following qualifications:

643 (i) a general knowledge of the specific methodology and controls necessary to audit,
644 investigate, and identify Medicaid fraud, waste, and abuse;

645 (ii) strong management skills;

646 (iii) extensive knowledge of, and at least seven years experience with, performance
647 audit methodology;

648 (iv) the ability to oversee and execute an audit;

649 (v) strong interpersonal skills; and

650 (vi) experience in making presentations to government officials.

651 (4) The inspector general:

652 (a) shall serve a term of six years; and

653 (b) may be removed by the governor, for cause.

654 (5) If the inspector general is removed for cause, a new inspector general shall be
655 appointed, with the advice and consent of the Senate, to serve a six-year term.

656 Section 8. Section **63M-12-202** is enacted to read:

657 **63M-12-202. Duties and powers of inspector general and office.**

658 (1) The inspector general shall:

659 (a) administer, direct, and manage the office;

660 (b) inspect and monitor the following in relation to the state Medicaid program:

- 661 (i) the use and expenditure of federal and state funds;
662 (ii) the provision of health benefits and other services;
663 (iii) implementation of, and compliance with, state and federal requirements; and
664 (iv) records and recordkeeping procedures;
665 (c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;
666 (d) investigate and identify potential or actual fraud, waste, or abuse in the state
667 Medicaid program;
668 (e) consult with the Centers for Medicaid and Medicare Services and other states to
669 determine and implement best practices for discovering and eliminating fraud, waste, and
670 abuse of Medicaid funds;
671 (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse
672 in the state Medicaid program;
673 (g) work closely with the fraud unit to identify and recover improperly or fraudulently
674 expended Medicaid funds;
675 (h) audit, inspect, and evaluate the functioning of the division to ensure that the state
676 Medicaid program is managed in the most efficient and cost-effective manner possible;
677 (i) regularly advise the department and the division of an action that should be taken to
678 ensure that the state Medicaid program is managed in the most efficient and cost-effective
679 manner possible;
680 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid
681 program, to the fraud unit;
682 (k) determine ways to:
683 (i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid program;
684 and
685 (ii) recoup costs, reduce costs, and avoid or minimize increased costs of the state
686 Medicaid program;
687 (l) seek recovery of improperly paid Medicaid funds;
688 (m) track recovery of Medicaid funds by the state;
689 (n) in accordance with Section 63M-12-501:
690 (i) report on the actions and findings of the inspector general; and
691 (ii) make recommendations to the Legislature and the governor;

692 (o) provide training to agencies and employees on identifying potential fraud, waste, or
693 abuse of Medicaid funds; and

694 (p) develop and implement principles and standards for the fulfillment of the duties of
695 the inspector general, based on principles and standards used by:

696 (i) the Federal Offices of Inspector General;

697 (ii) the Association of Inspector's General; and

698 (iii) the United States Government Accountability Office.

699 (2) The office may conduct a performance or financial audit of:

700 (a) a state executive branch entity or a local government entity, including an entity
701 described in Subsection 63M-12-301(3), that:

702 (i) manages or oversees a state Medicaid program; or

703 (ii) manages or oversees the use or expenditure of state or federal Medicaid funds; or

704 (b) Medicaid funds received by a person by a grant from, or under contract with, a state
705 executive branch entity or a local government entity.

706 (3) The inspector general may take a sworn statement or administer an oath.

707 Section 9. Section **63M-12-203** is enacted to read:

708 **63M-12-203. Memorandum of understanding with fraud unit.**

709 The inspector general shall enter into a memorandum of understanding with the fraud
710 unit to:

711 (1) formalize communication, cooperation, coordination of efforts, and the sharing of
712 information, on a regular basis, between the office and the fraud unit;

713 (2) provide for reporting criminal activity discovered by the office to the fraud unit;

714 (3) ensure that investigations and other action by the office and the fraud unit do not
715 conflict; and

716 (4) provide for the sharing and classification of records between the office and the
717 fraud unit under the Government Records Access and Management Act.

718 Section 10. Section **63M-12-204** is enacted to read:

719 **63M-12-204. Selection and review of claims.**

720 (1) On an annual basis, the office shall select and review a representative sample of
721 claims submitted for reimbursement under the state Medicaid program to determine whether
722 fraud, waste, or abuse occurred.

723 (2) The office may directly contact the recipient of record for a Medicaid reimbursed
724 service to determine whether the service for which reimbursement was claimed was actually
725 provided to the recipient of record.

726 (3) The office shall generate statistics from the sample described in Subsection (1) to
727 determine the type of fraud, waste, or abuse that is most advantageous to focus on in future
728 audits or investigations.

729 Section 11. Section **63M-12-205** is enacted to read:

730 **63M-12-205. Placement of hold on claims for reimbursement -- Injunction.**

731 (1) The inspector general or the inspector general's designee may, without prior notice,
732 order a hold on the payment of a claim for reimbursement submitted by a claimant if there is
733 reasonable cause to believe that the claim, or payment of the claim, constitutes fraud, waste, or
734 abuse, or is otherwise inaccurate.

735 (2) The office shall, within seven days after the day on which a hold described in
736 Subsection (1) is ordered, notify the claimant that the hold has been placed.

737 (3) The inspector general or the inspector general's designee may not maintain a hold
738 longer than is necessary to determine whether the claim, or payment of the claim, constitutes
739 fraud, waste, or abuse, or is otherwise inaccurate.

740 (4) A claimant may, at any time during which a hold is in place, appeal the hold under
741 Title 63G, Chapter 4, Administrative Procedures Act.

742 (5) If a claim is approved or denied before a hearing is held under Title 63G, Chapter 4,
743 Administrative Procedures Act, the appeal shall be dismissed as moot.

744 (6) The inspector general may request that the attorney general's office seek an
745 injunction to prevent a person from disposing of an asset that is potentially subject to recovery
746 by the state to recover funds due to a person's fraud or abuse.

747 (7) The department and the division shall fully comply with a hold ordered under this
748 section.

749 Section 12. Section **63M-12-206** is enacted to read:

750 **63M-12-206. Transfer of full-time equivalents to staff office.**

751 The office shall be staffed by transferring from the Office of Internal Audit and
752 Program Integrity to the office all full-time equivalents for the following positions, as they
753 existed and were organized within the Office of Internal Audit and Program Integrity on

754 September 28, 2010, as shown in Appendix B of the Performance Audit of Utah Medicaid
755 Provider Cost Control, dated December 2010 and published by the Office of the Legislative
756 Auditor General:

757 (1) the director of the Office of Internal Audit and Program Integrity;
758 (2) the executive secretary to the director of the Office of Internal Audit and Program
759 Integrity;

760 (3) two positions of program manager of Program Integrity Post Payment Review;
761 (4) all positions under the positions described in Subsection (1)(c), including:
762 (a) four RN III positions;
763 (b) the position of RN III that was vacant on September 28, 2010;
764 (c) the position of office specialist I that was vacant on September 28, 2010;
765 (d) doctor (0.2 FTE);
766 (e) two positions of doctor (0.5 FTE each);
767 (f) data HPS III;
768 (g) the position of data HPS II that was vacant on September 28, 2010;
769 (h) collections HPS II;
770 (i) PERM Lead;
771 (j) PERM HPS II; and
772 (k) PERM HPS II;
773 (5) the audit manager (performance audit); and
774 (6) all positions under the position described in Subsection (5), including:
775 (a) two positions of Lead Auditor;
776 (b) two positions of Auditor II, including the one that was vacant on September 28,
777 2010; and

778 (c) OIAS Support.

779 Section 13. Section **63M-12-207** is enacted to read:

780 **63M-12-207. Filling of transferred positions.**

781 The executive director of the department and the inspector general shall meet to
782 determine which individuals, if any, who currently hold the positions represented by the
783 full-time equivalents described in Section 63M-12-206, will fill positions in the office. Any
784 disagreement regarding transferring of personnel shall be resolved by the governor.

785 Section 14. Section **63M-12-301** is enacted to read:

786 **Part 3. Investigation or Audit**

787 **63M-12-301. Access to records -- Retention of designation under Government**
788 **Records Access and Management Act.**

789 (1) In order to fulfill the duties described in Section 63M-12-202, the office shall have
790 unrestricted access to all records of state executive branch entities, all local government
791 entities, and all providers relating, directly or indirectly, to:

792 (a) the state Medicaid program;

793 (b) state or federal Medicaid funds;

794 (c) the provision of Medicaid related services;

795 (d) the regulation or management of any aspect of the state Medicaid program;

796 (e) the use or expenditure of state or federal Medicaid funds;

797 (f) suspected or proven fraud, waste, or abuse of state or federal Medicaid funds;

798 (g) Medicaid program policies, practices, and procedures;

799 (h) monitoring of Medicaid services or funds; or

800 (i) a fatality review of a person who received Medicaid funded services.

801 (2) The office shall have access to information in any database maintained by the state
802 or a local government to verify identity, income, employment status, or other factors that affect
803 eligibility for Medicaid services.

804 (3) The records described in Subsections (1) and (2) include records held or maintained
805 by the department, the division, the Department of Human Services, the Department of
806 Workforce Services, a local health department, a local mental health authority, or a school
807 district. The records described in Subsection (1) include records held or maintained by a
808 provider.

809 (4) A record, described in Subsection (1) or (2), that is accessed or copied by the
810 office:

811 (a) may be reviewed or copied by the office during normal business hours; and

812 (b) if it is a government record, shall retain the classification made by the entity
813 responsible for the record, under Title 63G, Chapter 2, Government Records Access and
814 Management Act.

815 Section 15. Section **63M-12-302** is enacted to read:

816 **63M-12-302. Access to employees -- Cooperating with investigation or audit.**

817 (1) The office shall have access to interview the following persons if the inspector
818 general determines that the interview may assist the inspector general in fulfilling the duties
819 described in Section 63M-12-202:

820 (a) a state executive branch official, executive director, director, or employee;

821 (b) a local government official or employee;

822 (c) a consultant or contractor of a person described in Subsection (1)(a) or (b); or

823 (d) a provider or an employee of a provider.

824 (2) A person described in Subsection (1) and each supervisor of the person shall fully
825 cooperate with the office by:

826 (a) providing the office or the inspector general's designee with access to interview the
827 person;

828 (b) completely and truthfully answering questions asked by the office or the inspector
829 general's designee;

830 (c) providing the records, described in Subsection 63M-12-301(1), requested by the
831 office or the inspector general's designee; and

832 (d) providing the office or the inspector general's designee with information relating to
833 the office's investigation or audit.

834 (3) A person described in Subsection (1)(a) or (b) and each supervisor of the person
835 shall fully cooperate with the office by:

836 (a) providing records requested by the office or the inspector general's designee; and

837 (b) providing the office or the inspector general's designee with information relating to
838 the office's investigation or audit, including information that is classified as private, controlled,
839 or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

840 Section 16. Section **63M-12-303** is enacted to read:

841 **63M-12-303. Cooperation and support.**

842 The department, the division, each consultant or contractor of the department or
843 division, and each provider shall provide its full cooperation and support to the inspector
844 general and the office in fulfilling the duties of the inspector general and the office.

845 Section 17. Section **63M-12-304** is enacted to read:

846 **63M-12-304. Interference with an investigation or audit prohibited.**

847 No person may:

848 (1) interfere with or impede an investigation or audit of the office or fraud unit; or

849 (2) interfere with the office relative to the content of a report, the conclusions reached
850 in a report, or the manner of disclosing the results and findings of the office.

851 Section 18. Section **63M-12-401** is enacted to read:

852 **Part 4. Subpoena Power**

853 **63M-12-401. Subpoena power -- Enforcement.**

854 (1) The inspector general has the power to issue a subpoena to obtain a record or
855 interview a person that the office or inspector general has the right to access under Part 3,
856 Investigation or Audit.

857 (2) A person who fails to comply with a subpoena issued by the inspector general or
858 who refuses to testify regarding a matter upon which the person may be lawfully interrogated:

859 (a) is in contempt of the inspector general; and

860 (b) upon request by the inspector general, the attorney general shall:

861 (i) file a motion for an order to compel obedience to the subpoena with the district
862 court;

863 (ii) file, with the district court, a motion for an order to show cause why the penalties
864 established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person
865 named in the subpoena for contempt of the inspector general; or

866 (iii) pursue other legal remedies against the person.

867 (3) Upon receipt of a motion under Subsection (2), the court:

868 (a) shall expedite the hearing and decision on the motion; and

869 (b) may:

870 (i) order the person named in the subpoena to comply with the subpoena; and

871 (ii) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon
872 the person named in the subpoena for contempt of the inspector general.

873 (4) (a) If a subpoena described in this section requires the production of accounts,
874 books, papers, documents, or other tangible items, the person or entity to whom it is directed
875 may petition a district court to quash or modify the subpoena at or before the time specified in
876 the subpoena for compliance.

877 (b) The inspector general may respond to a motion to quash or modify the subpoena by

878 pursuing any remedy authorized by Subsection (3).

879 (c) If the court finds that a subpoena requiring the production of accounts, books,
880 papers, documents, or other tangible items is unreasonable or oppressive, the court may quash
881 or modify the subpoena.

882 (5) Nothing in this section prevents the inspector general from seeking an extraordinary
883 writ to remedy contempt of the inspector general.

884 (6) Any party aggrieved by a decision of a court under this section may appeal that
885 decision directly to the Utah Supreme Court.

886 Section 19. Section **63M-12-501** is enacted to read:

887 **Part 5. Reporting**

888 **63M-12-501. Duty to report potential Medicaid fraud to the office or fraud unit.**

889 (1) A health care professional, a provider, or a state or local government official or
890 employee who becomes aware of fraud, waste, or abuse shall report the fraud, waste, or abuse
891 to the office or the fraud unit.

892 (2) A person who makes a report under Subsection (1) may request that the person's
893 name not be released in connection with the investigation.

894 (3) If a request is made under Subsection (2), the person's identity may not be released
895 to any person or entity other than the office, the fraud unit, or law enforcement, unless a court
896 of competent jurisdiction orders that the person's identity be released.

897 Section 20. Section **63M-12-502** is enacted to read:

898 **63M-12-502. Report and recommendations to governor and Executive**
899 **Appropriations Committee.**

900 (1) The inspector general shall, on an annual basis, prepare a written report on the
901 activities of the office for the preceding fiscal year.

902 (2) The report shall include:

903 (a) non-identifying information, including statistical information, on:

904 (i) the items described in Subsection 63M-12-202(1)(b) and Section 63M-12-204;

905 (ii) action taken by the office and the result of that action;

906 (iii) fraud, waste, and abuse in the state Medicaid program;

907 (iv) the recovery of fraudulent or improper use of state and federal Medicaid funds;

908 (v) measures taken by the state to discover and reduce fraud, waste, and abuse in the

909 state Medicaid program;

910 (vi) audits conducted by the office; and

911 (vii) investigations conducted by the office and the results of those investigations;

912 (b) recommendations on action that should be taken by the Legislature or the governor

913 to:

914 (i) improve the discovery and reduction of fraud, waste, and abuse in the state

915 Medicaid program;

916 (ii) improve the recovery of fraudulently or improperly used Medicaid funds; and

917 (iii) reduce costs and avoid or minimize increased costs in the state Medicaid program;

918 (c) recommendations relating to rules, policies, or procedures of a state or local

919 government entity; and

920 (d) services provided by the state Medicaid program that exceed industry standards.

921 (3) The report described in Subsection (1) may not include any information that would
922 interfere with or jeopardize an ongoing criminal investigation or other investigation.

923 (4) The inspector general shall provide the report described in Subsection (1) to the
924 Executive Appropriations Committee of the Legislature and to the governor on or before
925 October 1 of each year.

926 (5) The inspector general shall present the report described in Subsection (1) to the
927 Executive Appropriations Committee of the Legislature before November 30 of each year.

928 Section 21. Section **63M-12-601** is enacted to read:

929 **Part 6. Miscellaneous Provisions**

930 **63M-12-601. Provision of contract services to Office of Inspector General of**
931 **Medicaid Services.**

932 (1) The division and the assistant attorneys general assigned to the division shall
933 provide, without charge, contract review, contract enforcement, and other contract management
934 services to the office.

935 (2) The division shall ensure that the services described in Subsection (1) are provided
936 in an expeditious manner.

937 (3) The attorney general shall designate one of the assistant attorneys general assigned
938 to the division to give first priority to providing the services described in Subsection (1) to the
939 office.

FISCAL NOTE

H.B. 84 1st Sub. (Buff)

SHORT TITLE: Office of Inspector General of Medicaid Services

SPONSOR: Clark, D.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

This bill reallocates \$2,632,500 in FY 2012 (\$994,900 from the General Fund, \$1,556,100 from federal funds, and \$81,500 from transfers) from the Department of Health to a new Medicaid Inspector General's Office.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$994,900	\$994,900
General Fund	\$0	(\$994,900)	(\$994,900)
Federal Funds	\$0	\$1,556,100	\$1,556,100
Federal Funds	\$0	(\$1,556,100)	(\$1,556,100)
Transfers	\$0	\$81,500	\$81,500
Transfers	\$0	(\$81,500)	(\$81,500)
Total Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	\$0	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.