

OFFICE OF MEDICAID INSPECTOR GENERAL

AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions of the Medical Benefits Recovery Act and the Office of Inspector General of Medicaid Services relating to duties and powers of the inspector general of Medicaid services.

Highlighted Provisions:

This bill:

- ▶ empowers the Office of Inspector General of Medicaid Services to request eligibility information from a health insurance entity;
- ▶ establishes that a health insurance entity may not deny a claim if:
 - the Office of Inspector General of Medicaid Services is seeking to enforce the rights of the state with respect to the claim; and
 - the enforcement action is begun not later than ~~§~~ **[six] three** ~~§~~ years after the day on which the claim is submitted; and
- ▶ enables the Office of Inspector General of Medicaid Services to report fraud directly to law enforcement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

S.B. 206



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **26-19-4.7**, as enacted by Laws of Utah 2007, Chapter 64

31 **63J-4a-102**, as enacted by Laws of Utah 2011, Chapter 151

32 **63J-4a-202**, as enacted by Laws of Utah 2011, Chapter 151



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

35 Section 1. Section **26-19-4.7** is amended to read:

36 **26-19-4.7. Health insurance entity -- Duties related to state claims for Medicaid**
37 **payment or recovery.**

38 (1) As a condition of doing business in the state, a health insurance entity shall:

39 ~~[(1)]~~ (a) with respect to a person who is eligible for, or is provided, medical assistance
40 under the state plan, upon the request of the Department of Health or the Office of Inspector
41 General of Medicaid Services, provide the person's member eligibility information to the
42 Department of Health or the Office of Inspector General of Medicaid Services to determine:

43 ~~[(a)]~~ (i) during what period the person, or the spouse or dependent of the person, may
44 be or may have been, covered by the health insurance entity; and

45 ~~[(b)]~~ (ii) the nature of the coverage that is or was provided by the health insurance
46 entity described in Subsection (1)(a)(i), including the name, address, and identifying number of
47 the plan;

48 ~~[(2)]~~ (b) accept the state's right of recovery and the assignment to the state of any right
49 of a person to payment from a party for an item or service for which payment has been made
50 under the state plan;

51 ~~[(3)]~~ (c) respond to any inquiry by the Department of Health or the Office of Inspector
52 General of Medicaid Services regarding a claim for payment for any health care item or service
53 that is submitted no later than three years after the day on which the health care item or service
54 is provided; and

55 ~~[(4)]~~ (d) not deny a claim submitted by the Department of Health or the Office of
56 Inspector General of Medicaid Services solely on the basis of the date of submission of the
57 claim, the type or format of the claim form, lack of prior authorization, or failure to present
58 proper documentation at the point-of-sale that is the basis for the claim, if:

59 ~~[(a)]~~ (i) the claim is submitted no later than three years after the day on which the item
60 or service is furnished; and

61 ~~[(b)]~~ (ii) any action by the Department of Health or the Office of Inspector General of
62 Medicaid Services to enforce the rights of the state with respect to the claim is commenced no
63 later than ~~§~~ **→ [six] three ←** § years after the day on which the claim is submitted.

64 (2) In accordance with Title 26, Chapter 33a, Utah Health Data Authority Act, if a
65 health insurance entity provides enrollment information to the Department of Health, the state
66 may use the enrolment information for the purpose of coordinating Medicaid benefits.

67 (3) The Office of Health Care Statistics shall provide information received under
68 Subsection (1) to the Office of Inspector General of Medicaid Services in order that the office
69 may fulfill its duties under Title 63J, Chapter 4a, Office of Inspector General of Medicaid
70 Services.

71 Section 2. Section **63J-4a-102** is amended to read:

72 **63J-4a-102. Definitions.**

73 As used in this chapter:

74 (1) "Abuse" means:

75 (a) an action or practice that:

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

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

78 (b) reckless or negligent upcoding.

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

80 (a) provides a service; and

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

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

83 (4) "Division" means the Division of Health Care Financing, created in Section
84 26-18-2.1.

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

86 (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a
87 claim, reimbursement, or services; or

88 (b) a violation of a provision of Subsections 26-20-3 through 26-20-7.

89 (6) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's

90 office.

91 (7) "Health care professional" means a person licensed under:

92 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

93 (b) Title 58, Chapter 16a, Utah Optometry Practice Act;

94 (c) Title 58, Chapter 17b, Pharmacy Practice Act;

95 (d) Title 58, Chapter 24b, Physical Therapy Practice Act;

96 (e) Title 58, Chapter 31b, Nurse Practice Act;

97 (f) Title 58, Chapter 40, Recreational Therapy Practice Act;

98 (g) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act;

99 (h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

100 (i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

101 (j) Title 58, Chapter 49, Dietitian Certification Act;

102 (k) Title 58, Chapter 60, Mental Health Professional Practice Act;

103 (l) Title 58, Chapter 67, Utah Medical Practice Act;

104 (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

105 (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

106 (o) Title 58, Chapter 70a, Physician Assistant Act; and

107 (p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

108 (8) "Inspector general" means the inspector general of the office, appointed under
109 Section 63J-4a-201.

110 (9) "Office" means the Office of Inspector General of Medicaid Services, created in
111 Section 63J-4a-201.

112 (10) "Provider" means a person that provides:

113 (a) medical assistance, including supplies or services, in exchange, directly or
114 indirectly, for Medicaid funds; or

115 (b) billing or recordkeeping services relating to Medicaid funds.

116 ~~§ → [(11) "Recovery" means the seizure of improperly obtained funds or property.] ← §~~

117 ~~§ → [f] (11) [f] [(12)] ← §~~ "Upcoding" means assigning an inaccurate billing code for a
117a service that is

118 payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking

119 into account reasonable opinions derived from official published coding definitions, would

120 result in a lower Medicaid payment or reimbursement.

121 ~~§~~ → [f] (12) [f] [~~13~~] ← ~~§~~ "Waste" means overutilization of resources or inappropriate
121a payment.

122 Section 3. Section **63J-4a-202** is amended to read:

123 **63J-4a-202. Duties and powers of inspector general and office.**

124 (1) The inspector general shall:

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

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

127 (i) the use and expenditure of federal and state funds;

128 (ii) the provision of health benefits and other services;

129 (iii) implementation of, and compliance with, state and federal requirements; and

130 (iv) records and recordkeeping procedures;

131 (c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;

132 (d) investigate and identify potential or actual fraud, waste, or abuse in the state

133 Medicaid program;

134 (e) consult with the Centers for Medicaid and Medicare Services and other states to

135 determine and implement best practices for discovering and eliminating fraud, waste, and

136 abuse of Medicaid funds;

137 (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse

138 in the state Medicaid program;

139 (g) work closely with the fraud unit to identify and recover improperly or fraudulently

140 expended Medicaid funds;

141 (h) audit, inspect, and evaluate the functioning of the division to ensure that the state

142 Medicaid program is managed in the most efficient and cost-effective manner possible;

143 (i) regularly advise the department and the division of an action that should be taken to

144 ensure that the state Medicaid program is managed in the most efficient and cost-effective

145 manner possible;

146 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid

147 program, to the fraud unit;

148 (k) refer potential criminal conduct, including relevant data from the controlled

149 substance database, relating to Medicaid fraud to law enforcement in accordance with Title 58,

150 Chapter 37f, Controlled Substance Database Act;

151 (l) determine ways to:

152 (i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid program;
153 and

154 (ii) recoup costs, reduce costs, and avoid or minimize increased costs of the state
155 Medicaid program;

156 [~~(t)~~] (m) ~~§~~→ [seek recovery of] recover ←~~§~~ improperly paid Medicaid funds;

157 [~~(m)~~] (n) track recovery of Medicaid funds by the state;

158 [~~(n)~~] (o) in accordance with Section 63J-4a-501:

159 (i) report on the actions and findings of the inspector general; and

160 (ii) make recommendations to the Legislature and the governor;

161 [~~(o)~~] (p) provide training to agencies and employees on identifying potential fraud,
162 waste, or abuse of Medicaid funds; and

163 [~~(p)~~] (q) develop and implement principles and standards for the fulfillment of the
164 duties of the inspector general, based on principles and standards used by:

165 (i) the Federal Offices of Inspector General;

166 (ii) the Association of Inspectors General; and

167 (iii) the United States Government Accountability Office.

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

169 (a) a state executive branch entity or a local government entity, including an entity
170 described in Subsection 63J-4a-301(3), that:

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

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

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

175 (3) The inspector general, or a designee of the inspector general within the office, may
176 take a sworn statement or administer an oath.

Legislative Review Note
as of 2-15-13 8:24 AM

Office of Legislative Research and General Counsel