

MEDICAID INSPECTOR GENERAL

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Office of Inspector General of Medicaid Services to clarify the powers of the inspector general.

Highlighted Provisions:

This bill:

- ▶ limits the period of time in which the Office of the Inspector General may investigate a Medicaid claim to 36 months, unless the claim is fraudulent;
- ▶ clarifies the application of the Utah Administrative Procedures Act to an administrative proceeding with the Office of the Medicaid Inspector General; and
- ▶ clarifies the order of authority for the state Medicaid program.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **63J-4a-202** is amended to read:



28 **63J-4a-202. Duties and powers of inspector general and office.**

29 (1) The inspector general shall:

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

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

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

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

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

35 (iv) records and recordkeeping procedures;

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

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

38 Medicaid program[;], which may include claims submitted by a provider up to 36 months prior
39 to the date the Office of the Inspector General initiated the investigation, unless the claim is
40 being investigated for fraud;

41 (e) consult with the Centers for Medicaid and Medicare Services and other states to
42 determine and implement best practices for discovering and eliminating fraud, waste, and
43 abuse of Medicaid funds;

44 (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse
45 in the state Medicaid program;

46 (g) work closely with the fraud unit to identify and recover improperly or fraudulently
47 expended Medicaid funds;

48 (h) audit, inspect, and evaluate the functioning of the division to ensure that the state
49 Medicaid program is managed in the most efficient and cost-effective manner possible;

50 (i) regularly advise the department and the division of an action that should be taken to
51 ensure that the state Medicaid program is managed in the most efficient and cost-effective
52 manner possible;

53 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid
54 program, to the fraud unit;

55 (k) determine ways to:

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

57 and

58 (ii) recoup costs, reduce costs, and avoid or minimize increased costs of the state

59 Medicaid program;

60 (l) seek recovery of improperly paid Medicaid funds on behalf of the state Medicaid
61 program;

62 (m) track recovery of Medicaid funds by the state;

63 (n) in accordance with Section 63J-4a-501:

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

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

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

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

70 (i) the Federal Offices of Inspector General;

71 (ii) the Association of Inspectors General; and

72 (iii) the United States Government Accountability Office~~[-]~~; and

73 (q) in accordance with Subsection (1)(l) and Section 63J-4a-205, develop and

74 implement procedures for administrative appeals in accordance with Title 63G, Chapter 4,

75 Administrative Procedures Act, in which:

76 (i) the Governor's Office of Planning and Budget created in Section 63J-4-202, is the
77 agency for purposes of the Administrative Procedures Act;

78 (ii) the presiding officer shall be designated by the director of the Governor's Office of
79 Planning and Budget and report directly to the director;

80 (iii) the decision of the presiding officer is the recommended decision to the director of
81 the Governor's Office of Planning and Budget; and

82 (iv) the director of the Governor's Office of Planning and Budget shall consult with the
83 executive director of the Department of Health regarding the recommendations of the presiding
84 officer, but is not bound by the recommendation of the executive director of the Department of
85 Health.

86 (2) Except in cases of fraud, or when it might jeopardize an investigation, the inspector
87 general shall offer to meet informally with a person who submitted a claim to the state
88 Medicaid program that is the subject of an investigation under this chapter before initiating an
89 administrative procedure under Subsection (1)(q). The offer to meet with a person under this

90 subsection does not limit the authority of the inspector general to proceed with an action under
91 this chapter.

92 (3) (a) (i) The office shall perform its duties under this section using the Utah State
93 Medicaid Plan under Title XIX of the Social Security Act Medical Assistance Program as its
94 governing authority unless Subsection (3)(b) or (c) apply.

95 (ii) If a conflict exists between the Utah State Medicaid Plan and an administrative rule
96 or internal department policy adopted by an entity that manages or oversees a state Medicaid
97 program, the Utah State Medicaid Plan shall govern.

98 (b) If the Utah State Medicaid Plan does not address a specific issue, and an
99 administrative rule addresses the issue, the administrative rule adopted by an entity that
100 manages or oversees a state Medicaid program shall govern.

101 (c) If neither the Utah State Medicaid Plan nor an administrative rule address a specific
102 issue, and an internal departmental policy adopted by an entity that manages or oversees a state
103 Medicaid program addresses the specific issue, the internal department policy shall govern.

104 (d) A communication between an employee of an entity that manages or oversees a
105 state Medicaid program and another person shall not supercede the governing authority of
106 Subsections (3)(a) through (c).

107 [~~2~~] (4) The office may conduct a performance or financial audit of:

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

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

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

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

114 [~~3~~] (5) The inspector general, or a designee of the inspector general within the office,
115 may take a sworn statement or administer an oath.

Legislative Review Note
as of 2-23-12 2:16 PM

Office of Legislative Research and General Counsel