

MEDICAID FRAUD CONTROL UNIT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to the Office of the Attorney General.

Highlighted Provisions:

This bill:

- ▶ amends the general duties of the Attorney General relating to the Medicaid Fraud Control Unit; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-5-1, as last amended by Laws of Utah 2020, Chapter 343

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

Section 1. Section **67-5-1** is amended to read:

67-5-1. General duties.

The attorney general shall:

- (1) perform all duties in a manner consistent with the attorney-client relationship under Section **67-5-17**;
- (2) except as provided in Sections **10-3-928** and **17-18a-403**, attend the Supreme Court

30 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
31 defend all causes to which the state or any officer, board, or commission of the state in an
32 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
33 state is interested;

34 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
35 process as necessary to execute the judgment;

36 (4) account for, and pay over to the proper officer, all money that comes into the
37 attorney general's possession that belongs to the state;

38 (5) keep a file of all cases in which the attorney general is required to appear, including
39 any documents and papers showing the court in which the cases have been instituted and tried,
40 and whether they are civil or criminal, and:

41 (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
42 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
43 satisfied, documentation of the return of the sheriff;

44 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
45 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
46 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
47 prevention; and

48 (c) deliver this information to the attorney general's successor in office;

49 (6) exercise supervisory powers over the district and county attorneys of the state in all
50 matters pertaining to the duties of the district and county attorneys' offices, including the
51 authority to:

52 (a) require a district or county attorney of the state to, upon request, report on the status
53 of public business entrusted to the district or county attorney's charge; or

54 (b) review investigation results de novo and file criminal charges, if warranted, in any
55 case involving a first degree felony, if:

56 (i) a law enforcement agency submits investigation results to the county or district
57 attorney of the jurisdiction where the incident occurred and the county or district attorney:

- 58 (A) declines to file criminal charges; or
- 59 (B) fails to screen the case for criminal charges within six months of the law
- 60 enforcement agency's submission of the investigation results; and
- 61 (ii) after consultation with the county or district attorney of the jurisdiction where the
- 62 incident occurred, the attorney general reasonably believes action by the attorney general would
- 63 not interfere with an ongoing investigation or prosecution by the county or district attorney of
- 64 the jurisdiction where the incident occurred;
- 65 (7) give the attorney general's opinion in writing and without fee, when required, upon
- 66 any question of law relating to the office of the requester:
- 67 (a) in accordance with Section 67-5-1.1, to the Legislature or either house;
- 68 (b) to any state officer, board, or commission; and
- 69 (c) to any county attorney or district attorney;
- 70 (8) when required by the public service or directed by the governor, assist any county,
- 71 district, or city attorney in the discharge of county, district, or city attorney's duties;
- 72 (9) purchase in the name of the state, under the direction of the state Board of
- 73 Examiners, any property offered for sale under execution issued upon judgments in favor of or
- 74 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
- 75 consideration of the purchases;
- 76 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
- 77 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
- 78 taking precedence of the judgment in favor of the state, redeem the property, under the
- 79 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
- 80 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
- 81 out of any money appropriated for these purposes;
- 82 (11) when in the attorney general's opinion it is necessary for the collection or
- 83 enforcement of any judgment, institute and prosecute on behalf of the state any action or
- 84 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
- 85 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of

86 Examiners, out of any money not otherwise appropriated;

87 (12) discharge the duties of a member of all official boards of which the attorney
88 general is or may be made a member by the Utah Constitution or by the laws of the state, and
89 other duties prescribed by law;

90 (13) institute and prosecute proper proceedings in any court of the state or of the
91 United States to restrain and enjoin corporations organized under the laws of this or any other
92 state or territory from acting illegally or in excess of their corporate powers or contrary to
93 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
94 and wind up their affairs;

95 (14) institute investigations for the recovery of all real or personal property that may
96 have escheated or should escheat to the state, and for that purpose, subpoena any persons
97 before any of the district courts to answer inquiries and render accounts concerning any
98 property, examine all books and papers of any corporations, and when any real or personal
99 property is discovered that should escheat to the state, institute suit in the district court of the
100 county where the property is situated for its recovery, and escheat that property to the state;

101 (15) administer the Children's Justice Center as a program to be implemented in
102 various counties pursuant to Sections [67-5b-101](#) through [67-5b-107](#);

103 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
104 Constitutional and Federalism Defense Act;

105 (17) pursue any appropriate legal action to implement the state's public lands policy
106 established in Section [63C-4a-103](#);

107 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
108 connection with the state Medicaid program and any other medical assistance program
109 administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

110 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
111 ~~at~~:

112 (a) in health care facilities that receive payments under the state Medicaid program;
113 ~~and~~

114 (b) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
115 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and
116 (c) who are receiving medical assistance under the Medicaid program as defined in
117 Section 26-18-2 in a noninstitutional or other setting;

118 (20) (a) report at least twice per year to the Legislative Management Committee on any
119 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

- 120 (i) cost the state more than \$500,000; or
- 121 (ii) require the state to take legally binding action that would cost more than \$500,000
122 to implement; and

123 (b) if the meeting is closed, include an estimate of the state's potential financial or other
124 legal exposure in that report;

125 (21) (a) submit a written report to the committees described in Subsection (21)(b) that
126 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has
127 determined that a state statute is unconstitutional or unenforceable since the attorney general's
128 last report under this Subsection (21), including any:

- 129 (i) settlements reached;
- 130 (ii) consent decrees entered;
- 131 (iii) judgments issued;
- 132 (iv) preliminary injunctions issued;
- 133 (v) temporary restraining orders issued; or
- 134 (vi) formal or informal policies of the Office of the Attorney General to not enforce a
135 law; and

136 (b) at least 30 days before the Legislature's May and November interim meetings,
137 submit the report described in Subsection (21)(a) to:

- 138 (i) the Legislative Management Committee;
- 139 (ii) the Judiciary Interim Committee; and
- 140 (iii) the Law Enforcement and Criminal Justice Interim Committee;

141 (22) if the attorney general operates the Office of the Attorney General or any portion

142 of the Office of the Attorney General as an internal service fund agency in accordance with
143 Section 67-5-4, submit to the rate committee established in Section 67-5-34:

144 (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

145 (b) any other information or analysis requested by the rate committee;

146 (23) before the end of each calendar year, create an annual performance report for the
147 Office of the Attorney General and post the report on the attorney general's website;

148 (24) ensure that any training required under this chapter complies with Title 63G,
149 Chapter 22, State Training and Certification Requirements;

150 (25) notify the legislative general counsel in writing within three business days after
151 the day on which the attorney general is officially notified of a claim, regardless of whether the
152 claim is filed in state or federal court, that challenges:

153 (a) the constitutionality of a state statute;

154 (b) the validity of legislation; or

155 (c) any action of the Legislature; and

156 (26) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
157 special advisor to the Office of the Governor and the Office of the Attorney General in matters
158 relating to Native American and tribal issues to:

159 (i) establish outreach to the tribes and affected counties and communities; and

160 (ii) foster better relations and a cooperative framework; and

161 (b) annually report to the Executive Offices and Criminal Justice Appropriations
162 Subcommittee regarding:

163 (i) the status of the work of the special advisor described in Subsection (26)(a); and

164 (ii) whether the need remains for the ongoing appropriation to fund the special advisor
165 described in Subsection (26)(a).