

Office of Inspector General Scope and Powers; HB 2217

HB 2217 expands the scope of the Inspector General within the Office of the Attorney General to include the audit, investigation, and performance review of all state cash, food, and health assistance programs. The bill grants the Inspector General the power to subpoena, administer oaths, and execute search warrants. The bill also adds and amends several definitions and makes technical, clarifying, and conforming amendments.

Definitions

The bill adds the following definitions:

- “Cash assistance” means assistance that is administered and provided by the Secretary for Children and Families to individuals for a family’s ongoing basic needs;
- “Food assistance” means assistance that is administered by the U.S. Department of Agriculture and provided by the Secretary for Children and Families to individuals for eligible food products; and
- “Health assistance” means the Medicaid program and the state Children’s Health Insurance Program (CHIP).

The bill amends the definitions for “claim,” “client,” “contractor,” “contractor files,” “fiscal agent,” “provider,” “recipient,” and “records” to replace references to “Medicaid, the state MediKan program, or the state Children’s Health Insurance Program” with “any cash, food or health assistance program.”

The definition of “healthcare provider” is amended to replace a reference to “Medicaid, the state MediKan program, or the state Children’s Health Insurance Program” with “health assistance program.”

The bill removes language exempting the following from the definition of “records”: any report or record in any format made pursuant to statutes pertaining to risk management programs for health care facilities, health care provider reporting requirements, and reports relating to impaired providers, which are privileged pursuant to statutes relating to health care provider peer reviews or confidential and privileged reports.

Office of the Inspector General

Purpose

The bill clarifies the purpose of the Office of the Inspector General (OIG) full-time program of audit, investigation, and performance review to provide increased accountability, integrity, and oversight of any state cash, food, or health assistance programs and to assist in improving agency and program operations and in deterring and identifying fraud, waste, abuse,

and other illegal acts. [Note: Prior law provided only for a full-time program to audit, investigate, and perform such reviews of the state Medicaid program, the MediKan program, and CHIP.]

Prohibited Employment

The bill prohibits a former or current Inspector General from being employed as an executive or manager for any program or agency subject to oversight by the OIG for two years after such Inspector General's period of service as the Inspector General has concluded.

Removal from Office

The bill requires the Attorney General to remove the Inspector General from office for cause prior to the expiration of the Inspector General's term. [Note: Prior law authorized the Attorney General to remove an Inspector General for cause.]

Duties of Inspector General

The bill expands the duties of the Inspector General to require the oversight, audit, investigation, and performance reviews of any state cash, food, or health assistance program, changed from state Medicaid, MediKan, and CHIP programs.

Reporting to Attorney General

The bill specifies that the Inspector General is required to report finding credible evidence of "significant levels" of fraud, waste, abuse, or other illegal acts to the Attorney General.

Cases for Prosecution

Continuing law authorizes the Inspector General to present for prosecution the findings of any criminal investigation to the Attorney General or the Office of the U.S. Attorney in Kansas. The bill authorizes the Inspector General to also present such findings for prosecution to any applicable district or county attorney.

Powers of the Inspector General and Designees

The bill grants the Inspector General and their designees the following additional powers:

- Original jurisdiction to investigate crimes related to public assistance, including:
 - Violations of the Kansas Medicaid Fraud Control Act;
 - Fraud pertaining to eligibility for cash, food assistance, child care subsidy, and medical assistance;

- Fraudulent acts involving obtaining assistance; and
- Violations related to records held by a provider to which the Attorney General is allowed access;
- The power to issue, serve, or cause to be served subpoenas or other process of service in the aid of investigations;
- The power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records, and papers as directly related to state cash, food, and health assistance programs;
- The power to administer oaths and take sworn statements under penalty of perjury;
- The power to serve and execute in any county search warrants that relate to investigations being executed by the OIG; and
- Access to contractor files, limited to those files necessary to verify the accuracy of the contractors' invoices or its compliance with contract provisions. No health care provider will be compelled to provide individual medical records of patients who are not clients of such a program or programs. [Note: This continuing law is re-designated as one of the powers granted to the Inspector General and their designee.]

Reporting to Health Care Provider Regulatory Agencies

When the Inspector General determines that reasonable suspicion exists that an act relating to the violation of an agency licensure or regulatory standard has been committed by a vendor, contractor, or health care provider who is licensed or regulated by an agency, continuing law requires the Inspector General to immediately notify such agency of the possible violation. The bill adds an exception to the reporting requirement if such notification would jeopardize an ongoing criminal investigation.

Content of Annual Inspector General Report

The bill adds the type of audit conducted to the list of required items to be included in the Inspector General's annual report. The bill removes the requirement for the annual report to include aggregate provider billing and payment information as well as the reference to the programs administered by the Kansas Department of Health and Environment.