

By: Dukes

H.B. No. 668

A BILL TO BE ENTITLED

AN ACT

relating to the office of inspector general.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. INSPECTOR GENERAL

Sec. 531.451. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011.

(2) "Inspector general" means the inspector general appointed under this subchapter.

(3) "Office" means the Office of the Inspector General.

(4) "Provider" has the meaning assigned by Section 531.1011.

(5) "Review" includes an inspection, investigation, audit, or similar activity.

(6) "State funds" or "state money" includes federal funds or money received and appropriated by the state or for which the state has oversight responsibility.

Sec. 531.452. REFERENCE IN OTHER LAW. Notwithstanding any other provision of law, a reference in law or rule to the commission's office of inspector general or the commission's office of investigations and enforcement means the Office of the Inspector

1 General.

2 Sec. 531.453. OFFICE OF INSPECTOR GENERAL; ADMINISTRATIVE
3 ATTACHMENT. (a) The office of inspector general is responsible
4 for:

5 (1) the investigation of fraud, waste, and abuse in
6 the provision or funding of health or human services by this state;

7 (2) the enforcement of state law relating to the
8 provision of those services to protect the public; and

9 (3) the prevention and detection of crime relating to
10 the provision of those services.

11 (b) The office is administratively attached to the
12 commission. The commission shall provide to the office
13 administrative support services from the commission and from the
14 health and human services agency.

15 Sec. 531.454. SERVICE LEVEL AGREEMENT; FUNDS. (a) The
16 commission and the office shall enter into a service level
17 agreement that establishes the performance standards and
18 deliverables with regard to administrative support by the
19 commission.

20 (b) The service level agreement must be reviewed at least
21 annually to ensure that services and deliverables are provided in
22 accordance with the agreement.

23 (c) The commission shall request, apply for, and receive for
24 the office any appropriations or other money from this state or the
25 federal government.

26 (d) The commission shall provide to the office for the state
27 fiscal biennium beginning September 1, 2007, the same level of

1 administrative support the commission provided to the office
2 established under former Section 531.102 for the state fiscal
3 biennium beginning September 1, 2005. This subsection expires
4 January 1, 2010.

5 Sec. 531.455. DUTIES OF COMMISSION. (a) The commission
6 shall:

7 (1) provide administrative assistance to the office;
8 and

9 (2) coordinate administrative responsibilities with
10 the office to avoid unnecessary duplication of duties.

11 (b) The commission may not take an action that affects or
12 relates to the validity, status, or terms of an interagency
13 agreement or a contract to which the office is a party without the
14 office's approval.

15 Sec. 531.456. INDEPENDENCE OF OFFICE. (a) Except as
16 otherwise provided by this chapter, the office and inspector
17 general operate independently of the commission.

18 (b) The inspector general and the office staff are not
19 employees of the commission.

20 Sec. 531.457. INSPECTOR GENERAL: APPOINTMENT AND TERM. (a)
21 The governor shall appoint an inspector general to serve as
22 director of the office.

23 (b) The inspector general serves a two-year term that
24 expires on February 1 of each odd-numbered year.

25 Sec. 531.458. CONFLICT OF INTEREST. (a) The inspector
26 general may not serve as an ex officio member on the governing body
27 of a governmental entity.

1 (b) The inspector general may not have a financial interest
2 in the transactions of the office, a health and human services
3 agency, or a health or human services provider.

4 Sec. 531.459. RULEMAKING BY INSPECTOR GENERAL. (a)
5 Notwithstanding Section 531.0055(e) and any other law, the
6 inspector general shall adopt the rules necessary to administer the
7 functions of the office, including rules to address the imposition
8 of sanctions and penalties for violations and due process
9 requirements for imposing sanctions and penalties.

10 (b) A rule, standard, or form adopted by the executive
11 commissioner, commission, or a health and human services agency
12 that is necessary to accomplish the duties of the office is
13 considered to also be a rule, standard, or form of the office and
14 remains in effect as a rule, standard, or form of the office until
15 changed by the inspector general.

16 (c) The office may submit proposed rules to the commission
17 for publication. The executive commissioner or commission may not
18 amend or modify a rule submitted by the office.

19 (d) The rules must include standards for the office that
20 emphasize:

21 (1) coordinating investigative efforts to
22 aggressively recover money;

23 (2) allocating resources to cases that have the
24 strongest supportive evidence and the greatest potential for
25 recovery of money; and

26 (3) maximizing opportunities for referral of cases to
27 the office of the attorney general.

1 Sec. 531.460. EMPLOYEES; TRAINING. (a) The inspector
2 general may employ personnel as necessary to implement the duties
3 of the office.

4 (b) The inspector general shall train office personnel to
5 pursue priority Medicaid and other health and human services fraud,
6 waste, and abuse cases efficiently and as necessary.

7 (c) The inspector general may contract with certified
8 public accountants, management consultants, or other professional
9 experts necessary to enable the inspector general and office
10 personnel to independently perform the functions of the inspector
11 general's office.

12 (d) The inspector general may require employees of health
13 and human services agencies to provide assistance to the office in
14 connection with the office's duties relating to the investigation
15 of fraud, waste, and abuse in the provision of health and human
16 services.

17 Sec. 531.461. REVIEW AND AUDIT AUTHORITY. (a) The
18 inspector general may evaluate any activity or operation of a
19 health and human services agency, health or human services
20 provider, or person in this state that is related to the
21 investigation, detection, or prevention of fraud or employee
22 misconduct in a state or state-funded health or human services
23 program. A review may include an investigation or other inquiry
24 into a specific act or allegation of, or a specific financial
25 transaction or practice that may involve, impropriety,
26 malfeasance, or nonfeasance in the obligation, spending, receipt,
27 or other use of state money.

1 (b) The executive commissioner, commission, or a health and
2 human services agency of this state may not impair or prohibit the
3 inspector general from initiating or completing a review.

4 (c) The inspector general may audit and review the use and
5 effectiveness of state funds, including contract and grant funds,
6 administered by a person or state agency receiving the funds in
7 connection with a state or state-funded health or human services
8 program.

9 Sec. 531.462. INITIATION OF REVIEW. The inspector general
10 may initiate a review:

11 (1) on the inspector general's own initiative;

12 (2) at the request of the commission or executive
13 commissioner; or

14 (3) based on a complaint from any source concerning a
15 matter described by Section 531.461.

16 Sec. 531.463. INTEGRITY REVIEW. (a) The office shall
17 conduct an integrity review to determine whether there is
18 sufficient basis to warrant a full investigation on receipt of any
19 complaint of fraud, waste, or abuse of funds in the state Medicaid
20 program from any source.

21 (b) An integrity review must begin not later than the 30th
22 day after the date the office receives a complaint or has reason to
23 believe that Medicaid fraud, waste, or abuse has occurred. An
24 integrity review shall be completed not later than the 90th day
25 after the date the review began.

26 (c) If the findings of an integrity review give the office
27 reason to believe that an incident of fraud involving possible

1 criminal conduct has occurred in the state Medicaid program, the
2 office must take the following action, as appropriate, not later
3 than the 30th day after the completion of the integrity review:

4 (1) if a provider is suspected of fraud involving
5 criminal conduct, the office must refer the case to the state's
6 Medicaid fraud control unit, provided that the criminal referral
7 does not preclude the office from continuing its investigation of
8 the provider or preclude the imposition of appropriate
9 administrative or civil sanctions; or

10 (2) if there is reason to believe that a recipient of
11 funds has defrauded the Medicaid program, the office may conduct a
12 full investigation of the suspected fraud.

13 Sec. 531.464. ACCESS TO INFORMATION. (a) To further a
14 review conducted by the office, the inspector general is entitled
15 to access all books, accounts, reports, vouchers, or other
16 information, including confidential information, electronic data,
17 and internal records relevant to the functions of the office,
18 maintained by a person, health and human services agency, or health
19 or human services provider in connection with a state or
20 state-funded health or human services program.

21 (b) The inspector general may not access data or other
22 information the release of which is restricted under federal law
23 unless the appropriate federal agency approves the release to the
24 office or its agent.

25 Sec. 531.465. COOPERATION REQUIRED. To further a review
26 conducted by the inspector general's office, the inspector general
27 may require medical or other professional assistance from the

1 executive commissioner, the commission, a health and human services
2 agency, or an auditor, accountant, or other employee of the
3 commission or agency.

4 Sec. 531.466. REFERRAL TO STATE MEDICAID FRAUD CONTROL
5 UNIT. (a) At the time the office learns or has reason to suspect
6 that a health or human services provider's records related to
7 participation in the state Medicaid program are being withheld,
8 concealed, destroyed, fabricated, or in any way falsified, the
9 office shall immediately refer the case to the state's Medicaid
10 fraud control unit.

11 (b) A criminal referral under Subsection (a) does not
12 preclude the office from continuing its investigation of a health
13 or human services provider or the imposition of appropriate
14 administrative or civil sanctions.

15 Sec. 531.467. HOLD ON CLAIM REIMBURSEMENT PAYMENT;
16 EXCLUSION FROM PROGRAMS. (a) In addition to other instances
17 authorized under state or federal law, the office shall impose
18 without prior notice a hold on payment of claims for reimbursement
19 submitted by a health or human services provider to compel
20 production of records related to participation in the state
21 Medicaid program or on request of the state's Medicaid fraud
22 control unit, as applicable.

23 (b) The office must notify the health or human services
24 provider of the hold on payment not later than the fifth working day
25 after the date the payment hold is imposed.

26 (c) The office shall, in consultation with the state's
27 Medicaid fraud control unit, establish guidelines under which holds

1 on payment or exclusions from a state or state-funded program:

2 (1) may permissively be imposed on a health or human
3 services provider; or

4 (2) shall automatically be imposed on a provider.

5 (d) A health or human services provider subject to a hold on
6 payment or excluded from a program under this section is entitled to
7 a hearing on the hold or exclusion. A hearing under this subsection
8 is a contested case hearing under Chapter 2001. The State Office of
9 Administrative Hearings shall conduct the hearing. After the
10 hearing, the office, subject to judicial review, shall make a final
11 determination. The commission, a health and human services agency,
12 and the office of the attorney general are entitled to intervene as
13 parties in the contested case.

14 Sec. 531.468. REQUEST FOR EXPEDITED HEARING. (a) On timely
15 written request by a health or human services provider subject to a
16 hold on payment under Section 531.467, other than a hold requested
17 by the state's Medicaid fraud control unit, the office shall file a
18 request with the State Office of Administrative Hearings for an
19 expedited administrative hearing regarding the hold.

20 (b) The health or human services provider must request an
21 expedited hearing not later than the 10th day after the date the
22 provider receives notice from the office under Section 531.467(b).

23 Sec. 531.469. INFORMAL RESOLUTION. (a) The inspector
24 general shall adopt rules that allow a health or human services
25 provider subject to a hold on payment under Section 531.467, other
26 than a hold requested by the state's Medicaid fraud control unit, to
27 seek an informal resolution of the issues identified by the office

1 in the notice provided under that section.

2 (b) A health or human services provider must seek an
3 informal resolution not later than the 10th day after the date the
4 provider receives notice from the office under Section 531.467(b).

5 (c) A health or human services provider's decision to seek
6 an informal resolution does not extend the time by which the
7 provider must request an expedited administrative hearing under
8 Section 531.468.

9 (d) A hearing initiated under Section 531.467 shall be
10 stayed at the office's request until the informal resolution
11 process is completed.

12 Sec. 531.470. EMPLOYEE REPORTS. The inspector general may
13 require employees at the commission or a health and human services
14 agency to report to the office information regarding fraud, waste,
15 misuse or abuse of funds or resources, corruption, or illegal acts.

16 Sec. 531.471. SUBPOENAS. (a) The inspector general may
17 issue a subpoena to compel the attendance of a relevant witness or
18 the production, for inspection or copying, of relevant evidence in
19 connection with a review conducted under this subchapter.

20 (b) A subpoena may be served personally or by certified
21 mail.

22 (c) If a person fails to comply with a subpoena, the
23 inspector general, acting through the attorney general, may file
24 suit to enforce the subpoena in a district court in this state.

25 (d) On finding that good cause exists for issuing the
26 subpoena, the court shall order the person to comply with the
27 subpoena. The court may hold in contempt a person who fails to obey

1 the court order.

2 (e) The reimbursement of the expenses of a witness whose
3 attendance is compelled under this section is governed by Section
4 2001.103.

5 Sec. 531.472. INTERNAL AUDITOR. (a) In this section,
6 "internal auditor" means a person appointed under Section 2102.006.

7 (b) The internal auditor for a health and human services
8 agency shall provide the inspector general with a copy of the
9 agency's internal audit plan to:

10 (1) assist in the coordination of efforts between the
11 inspector general and the internal auditor; and

12 (2) limit duplication of effort regarding reviews by
13 the inspector general and internal auditor.

14 (c) The internal auditor shall provide to the inspector
15 general all final audit reports concerning audits of any:

16 (1) part or division of the agency;

17 (2) contract, procurement, or grant; and

18 (3) program conducted by the agency.

19 Sec. 531.473. COOPERATION WITH LAW ENFORCEMENT OFFICIALS
20 AND OTHER ENTITIES. (a) The inspector general may provide
21 information and evidence relating to criminal acts to the state
22 auditor's office and appropriate law enforcement officials.

23 (b) The inspector general may refer matters for further
24 civil, criminal, and administrative action to appropriate
25 administrative and prosecutorial agencies, including the attorney
26 general.

27 (c) The inspector general may enter into a memorandum of

1 understanding with a law enforcement or prosecutorial agency,
2 including the office of the attorney general, to assist in
3 conducting a review under this subchapter.

4 Sec. 531.474. COOPERATION AND COORDINATION WITH STATE
5 AUDITOR. (a) The state auditor may, on request of the inspector
6 general, provide appropriate information or other assistance to the
7 inspector general or office, as determined by the state auditor.

8 (b) The inspector general may meet with the state auditor's
9 office to coordinate a review conducted under this subchapter,
10 share information, or schedule work plans.

11 (c) The state auditor is entitled to access all information
12 maintained by the inspector general, including vouchers,
13 electronic data, internal records, and information obtained under
14 Section 531.464 or subject to Section 531.481.

15 (d) Any information obtained or provided by the state
16 auditor under this section is confidential and not subject to
17 disclosure under Chapter 552.

18 Sec. 531.475. PREVENTION. (a) The inspector general may
19 recommend to the commission and executive commissioner policies on:

20 (1) promoting economical and efficient administration
21 of state funds administered by an individual or entity that
22 received the funds from a health and human services agency; and

23 (2) preventing and detecting fraud, waste, and abuse
24 in the administration of those funds.

25 (b) The inspector general may provide training or other
26 education regarding the prevention of fraud, waste, or abuse to
27 employees of a health and human services agency. The training or

1 education provided must be approved by the presiding officer of the
2 agency.

3 Sec. 531.476. RULEMAKING BY EXECUTIVE COMMISSIONER. The
4 executive commissioner may adopt rules governing a health and human
5 services agency's response to reports and referrals from the
6 inspector general on issues identified by the inspector general
7 related to the agency or a contractor of the agency.

8 Sec. 531.477. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING
9 OFFICER. If a review by the inspector general involves allegations
10 that a presiding officer of a health and human services agency has
11 engaged in misconduct, the inspector general shall report to the
12 governor during the review until the report is completed or the
13 review is closed without a finding.

14 Sec. 531.478. PERIODIC REPORTING TO STATE AUDITOR AND
15 EXECUTIVE COMMISSIONER REQUIRED. The inspector general shall
16 timely inform the state auditor and the executive commissioner of
17 the initiation of a review of a health and human services agency
18 program and the ongoing status of each review.

19 Sec. 531.479. REPORTING OFFICE FINDINGS. The inspector
20 general shall report the findings of the office to:

- 21 (1) the executive commissioner;
22 (2) the governor;
23 (3) the lieutenant governor;
24 (4) the speaker of the house of representatives;
25 (5) the state auditor's office; and
26 (6) appropriate law enforcement and prosecutorial
27 agencies, including the office of the attorney general, if the

1 findings suggest the probability of criminal conduct.

2 Sec. 531.480. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The
3 inspector general shall immediately report to the executive
4 commissioner, the governor's general counsel, and the state auditor
5 a particularly serious or flagrant problem relating to the
6 administration of a program, operation of a health and human
7 services agency, or interference with an inspector general review.

8 Sec. 531.481. INFORMATION CONFIDENTIAL. (a) Except as
9 provided by this section, Sections 531.103, 531.477 through
10 531.480, and 531.482, all information and material compiled by the
11 inspector general during a review under this subchapter is:

12 (1) confidential and not subject to disclosure under
13 Chapter 552; and

14 (2) not subject to disclosure, discovery, subpoena, or
15 other means of legal compulsion for release to anyone other than the
16 state auditor's office, the commission, or the office or its agents
17 involved in the review related to that information or material.

18 (b) As the inspector general determines appropriate,
19 information relating to a review may be disclosed to:

- 20 (1) a law enforcement agency;
21 (2) the attorney general's office;
22 (3) the state auditor's office; or
23 (4) the commission.

24 (c) A person that receives information under Subsection (b)
25 may not disclose the information except to the extent that
26 disclosure is consistent with the authorized purpose for which the
27 person first obtained the information.

1 Sec. 531.482. DRAFT OF FINAL REVIEW REPORT; AGENCY
2 RESPONSE. (a) Except in cases in which the office has determined
3 that potential fraud exists, the office shall provide a draft of the
4 final review report of any investigation, audit, or review of the
5 operations of a health and human services agency to the presiding
6 officer of the agency before publishing the office's final review
7 report.

8 (b) The health and human services agency may provide a
9 response to the office's draft report in the manner prescribed by
10 the office not later than the 10th day after the date the draft
11 report is received by the agency. The inspector general by rule
12 shall specify the format and requirements of the agency response.

13 (c) Notwithstanding Subsection (a), the office may not
14 provide a draft report to the presiding officer of the agency if in
15 the inspector general's opinion providing the draft report could
16 negatively affect any anticipated civil or criminal proceedings.

17 (d) The office may include any portion of the agency's
18 response in the office's final report.

19 Sec. 531.483. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)
20 The inspector general shall prepare a final report for each review
21 conducted under this subchapter. The final report must include:

22 (1) a summary of the activities performed by the
23 inspector general in conducting the review;

24 (2) a determination of whether wrongdoing was found;
25 and

26 (3) a description of any findings of wrongdoing.

27 (b) The inspector general's final review reports are

1 subject to disclosure under Chapter 552.

2 (c) All working papers and other documents related to
3 compiling the final review reports remain confidential and are not
4 subject to disclosure under Chapter 552.

5 (d) Not later than the 60th day after the date the office
6 issues a final report that identifies deficiencies or
7 inefficiencies in, or recommends corrective measures in the
8 operations of, a health and human services agency, the agency shall
9 file a response that includes:

10 (1) an implementation plan and timeline for
11 implementing corrective measures; or

12 (2) the agency's rationale for declining to implement
13 corrective measures for the identified deficiencies or
14 inefficiencies or the office's recommended corrective measures, as
15 applicable.

16 Sec. 531.484. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
17 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law
18 related to the operation of the inspector general does not prohibit
19 the state auditor from conducting an audit, investigation, or other
20 review or from having full and complete access to all records and
21 other information, including witnesses and electronic data, that
22 the state auditor considers necessary for the audit, investigation,
23 or other review.

24 Sec. 531.485. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY
25 AUDITS NOT IMPAIRED. This chapter or other law related to the
26 operation of the inspector general does not take precedence over
27 the authority of the state auditor to conduct an audit under Chapter

1 321 or other law.

2 Sec. 531.486. BUDGET. (a) The inspector general shall
3 submit a budget in accordance with the reporting requirements of
4 the General Appropriations Act.

5 (b) The inspector general shall submit to the commission a
6 legislative appropriations request and an operating budget in
7 accordance with the service level agreement entered into under
8 Section 531.454 and applicable law.

9 (c) The commission shall submit the office's appropriations
10 request and, if required by or under law, operating budget to the
11 legislature. The request or budget is not subject to review,
12 alteration, or modification by the commission or executive
13 commissioner before submission to the legislature.

14 Sec. 531.487. COSTS. (a) The inspector general shall
15 maintain information regarding the cost of reviews.

16 (b) The inspector general may cooperate with appropriate
17 administrative and prosecutorial agencies, including the office of
18 the attorney general, in recovering costs incurred under this
19 subchapter from nongovernmental entities, including contractors or
20 individuals involved in:

21 (1) violations of applicable state or federal rules or
22 statutes;

23 (2) abusive or wilful misconduct; or

24 (3) violations of a provider contract or program
25 policy.

26 Sec. 531.488. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

27 (a) The office may:

1 (1) act for a health and human services agency in the
2 assessment by the office of administrative or civil penalties the
3 agency is authorized to assess under applicable law; and

4 (2) request that the attorney general obtain an
5 injunction to prevent a person from disposing of an asset
6 identified by the office as potentially subject to recovery by the
7 office due to the person's fraud, waste, or abuse.

8 (b) If the office imposes an administrative or civil penalty
9 under Subsection (a) for a health and human services agency:

10 (1) the health and human services agency may not
11 impose an administrative or civil penalty against the same person
12 for the same violation; and

13 (2) the office shall impose the penalty under
14 applicable rules of the office, this subchapter, and applicable
15 laws governing the imposition of a penalty by the health and human
16 services agency.

17 SECTION 2. Section 531.001, Government Code, is amended by
18 adding Subdivision (4-a) to read as follows:

19 (4-a) "Inspector general" means the inspector general
20 appointed under Subchapter M.

21 SECTION 3. Section 531.008(c), Government Code, is amended
22 to read as follows:

23 (c) The executive commissioner shall establish the
24 following divisions and offices within the commission:

25 (1) the eligibility services division to make
26 eligibility determinations for services provided through the
27 commission or a health and human services agency related to:

1 (A) the child health plan program;

2 (B) the financial assistance program under
3 Chapter 31, Human Resources Code;

4 (C) the medical assistance program under Chapter
5 32, Human Resources Code;

6 (D) the nutritional assistance programs under
7 Chapter 33, Human Resources Code;

8 (E) long-term care services, as defined by
9 Section 22.0011, Human Resources Code;

10 (F) community-based support services identified
11 or provided in accordance with Section 531.02481; and

12 (G) other health and human services programs, as
13 appropriate;

14 (2) ~~the office of inspector general to perform fraud
15 and abuse investigation and enforcement functions as provided by
16 Subchapter C and other law;~~

17 ~~(3)~~ the office of the ombudsman to:

18 (A) provide dispute resolution services for the
19 commission and the health and human services agencies; and

20 (B) perform consumer protection functions
21 related to health and human services;

22 (3) ~~(4)~~ a purchasing division as provided by Section
23 531.017; and

24 (4) ~~(5)~~ an internal audit division to conduct a
25 program of internal auditing in accordance with ~~Government Code,~~
26 Chapter 2102.

27 SECTION 4. Section 531.103(a), Government Code, is amended

1 to read as follows:

2 (a) The [~~commission, acting through the commission's~~]
3 office of inspector general[~~7~~] and the office of the attorney
4 general shall enter into a memorandum of understanding to develop
5 and implement joint written procedures for processing cases of
6 suspected fraud, waste, or abuse, as those terms are defined by
7 state or federal law, or other violations of state or federal law
8 under the state Medicaid program or other program administered by
9 the commission or a health and human services agency, including the
10 financial assistance program under Chapter 31, Human Resources
11 Code, a nutritional assistance program under Chapter 33, Human
12 Resources Code, and the child health plan program. The memorandum
13 of understanding shall require:

14 (1) the office of inspector general and the office of
15 the attorney general to set priorities and guidelines for referring
16 cases to appropriate state agencies for investigation,
17 prosecution, or other disposition to enhance deterrence of fraud,
18 waste, abuse, or other violations of state or federal law,
19 including a violation of Chapter 102, Occupations Code, in the
20 programs and maximize the imposition of penalties, the recovery of
21 money, and the successful prosecution of cases;

22 (1-a) the office of inspector general to refer each
23 case of suspected provider fraud, waste, or abuse to the office of
24 the attorney general not later than the 20th business day after the
25 date the office of inspector general determines that the existence
26 of fraud, waste, or abuse is reasonably indicated;

27 (1-b) the office of the attorney general to take

1 appropriate action in response to each case referred to the
2 attorney general, which action may include direct initiation of
3 prosecution, with the consent of the appropriate local district or
4 county attorney, direct initiation of civil litigation, referral to
5 an appropriate United States attorney, a district attorney, or a
6 county attorney, or referral to a collections agency for initiation
7 of civil litigation or other appropriate action;

8 (2) the office of inspector general to keep detailed
9 records for cases processed by that office or the office of the
10 attorney general, including information on the total number of
11 cases processed and, for each case:

12 (A) the agency and division to which the case is
13 referred for investigation;

14 (B) the date on which the case is referred; and

15 (C) the nature of the suspected fraud, waste, or
16 abuse;

17 (3) the office of inspector general to notify each
18 appropriate division of the office of the attorney general of each
19 case referred by the office of inspector general;

20 (4) the office of the attorney general to ensure that
21 information relating to each case investigated by that office is
22 available to each division of the office with responsibility for
23 investigating suspected fraud, waste, or abuse;

24 (5) the office of the attorney general to notify the
25 office of inspector general of each case the attorney general
26 declines to prosecute or prosecutes unsuccessfully;

27 (6) representatives of the office of inspector general

1 and of the office of the attorney general to meet not less than
2 quarterly to share case information and determine the appropriate
3 agency and division to investigate each case; and

4 (7) the office of inspector general and the office of
5 the attorney general to submit information requested by the
6 comptroller about each resolved case for the comptroller's use in
7 improving fraud detection.

8 SECTION 5. Sections 531.106(f) and (g), Government Code,
9 are amended to read as follows:

10 (f) The commission shall refer cases identified by the
11 technology to the [~~commission's~~] office of inspector general
12 [~~investigations and enforcement~~] or the office of the attorney
13 general, as appropriate.

14 (g) Each month, the learning or neural network technology
15 implemented under this section must match bureau of vital
16 statistics death records with Medicaid claims filed by a provider.
17 If the commission determines that a provider has filed a claim for
18 services provided to a person after the person's date of death, as
19 determined by the bureau of vital statistics death records, the
20 commission shall refer the case for investigation to the
21 [~~commission's~~] office of inspector general [~~investigations and~~
22 ~~enforcement~~].

23 SECTION 6. Section 531.1061(a), Government Code, is amended
24 to read as follows:

25 (a) The office of inspector general [~~commission~~] shall use
26 an automated fraud investigation tracking system [~~through the~~
27 ~~commission's office of investigations and enforcement~~] to monitor

1 the progress of an investigation of suspected fraud, abuse, or
2 insufficient quality of care under the state Medicaid program.

3 SECTION 7. Sections 531.107(a) and (f), Government Code,
4 are amended to read as follows:

5 (a) The Medicaid and Public Assistance Fraud Oversight Task
6 Force advises and assists [~~the commission and~~] the [~~commission's~~]
7 office of inspector general [~~investigations and enforcement~~] in
8 improving the efficiency of fraud investigations and collections.

9 (f) At least once each fiscal quarter, the [~~commission's~~]
10 office of inspector general [~~investigations and enforcement~~] shall
11 provide to the task force:

12 (1) information detailing:

13 (A) the number of fraud referrals made to the
14 office and the origin of each referral;

15 (B) the time spent investigating each case;

16 (C) the number of cases investigated each month,
17 by program and region;

18 (D) the dollar value of each fraud case that
19 results in a criminal conviction; and

20 (E) the number of cases the office rejects and
21 the reason for rejection, by region; and

22 (2) any additional information the task force
23 requires.

24 SECTION 8. Section 531.108(a), Government Code, is amended
25 to read as follows:

26 (a) The [~~commission's~~] office of inspector general
27 [~~investigations and enforcement~~] shall compile and disseminate

1 accurate information and statistics relating to:

2 (1) fraud prevention; and

3 (2) post-fraud referrals received and accepted or
4 rejected from the ~~[commission's]~~ case management system of the
5 office of inspector general ~~[or the case management system of a~~
6 ~~health and human services agency]~~.

7 SECTION 9. Sections 531.113(b) through (d), Government
8 Code, are amended to read as follows:

9 (b) Each managed care organization subject to this section
10 shall adopt a plan to prevent and reduce fraud and abuse and
11 annually file that plan with the ~~[commission's]~~ office of inspector
12 general for approval. The plan must include:

13 (1) a description of the managed care organization's
14 procedures for detecting and investigating possible acts of fraud
15 or abuse;

16 (2) a description of the managed care organization's
17 procedures for the mandatory reporting of possible acts of fraud or
18 abuse to the ~~[commission's]~~ office of inspector general;

19 (3) a description of the managed care organization's
20 procedures for educating and training personnel to prevent fraud
21 and abuse;

22 (4) the name, address, telephone number, and fax
23 number of the individual responsible for carrying out the plan;

24 (5) a description or chart outlining the
25 organizational arrangement of the managed care organization's
26 personnel responsible for investigating and reporting possible
27 acts of fraud or abuse;

1 (6) a detailed description of the results of
2 investigations of fraud and abuse conducted by the managed care
3 organization's special investigative unit or the entity with which
4 the managed care organization contracts under Subsection (a)(2);
5 and

6 (7) provisions for maintaining the confidentiality of
7 any patient information relevant to an investigation of fraud or
8 abuse.

9 (c) If a managed care organization contracts for the
10 investigation of fraudulent claims and other types of program abuse
11 by recipients and service providers under Subsection (a)(2), the
12 managed care organization shall file with the [~~commission's~~] office
13 of inspector general:

14 (1) a copy of the written contract;

15 (2) the names, addresses, telephone numbers, and fax
16 numbers of the principals of the entity with which the managed care
17 organization has contracted; and

18 (3) a description of the qualifications of the
19 principals of the entity with which the managed care organization
20 has contracted.

21 (d) The [~~commission's~~] office of inspector general may
22 review the records of a managed care organization to determine
23 compliance with this section.

24 SECTION 10. Section 533.001, Government Code, is amended by
25 adding Subdivision (3-a) to read as follows:

26 (3-a) "Inspector general" means the inspector general
27 appointed under Subchapter M, Chapter 531.

1 SECTION 11. Section 533.005(a), Government Code, is amended
2 to read as follows:

3 (a) A contract between a managed care organization and the
4 commission for the organization to provide health care services to
5 recipients must contain:

6 (1) procedures to ensure accountability to the state
7 for the provision of health care services, including procedures for
8 financial reporting, quality assurance, utilization review, and
9 assurance of contract and subcontract compliance;

10 (2) capitation rates that ensure the cost-effective
11 provision of quality health care;

12 (3) a requirement that the managed care organization
13 provide ready access to a person who assists recipients in
14 resolving issues relating to enrollment, plan administration,
15 education and training, access to services, and grievance
16 procedures;

17 (4) a requirement that the managed care organization
18 provide ready access to a person who assists providers in resolving
19 issues relating to payment, plan administration, education and
20 training, and grievance procedures;

21 (5) a requirement that the managed care organization
22 provide information and referral about the availability of
23 educational, social, and other community services that could
24 benefit a recipient;

25 (6) procedures for recipient outreach and education;

26 (7) a requirement that the managed care organization
27 make payment to a physician or provider for health care services

1 rendered to a recipient under a managed care plan not later than the
2 45th day after the date a claim for payment is received with
3 documentation reasonably necessary for the managed care
4 organization to process the claim, or within a period, not to exceed
5 60 days, specified by a written agreement between the physician or
6 provider and the managed care organization;

7 (8) a requirement that the commission, on the date of a
8 recipient's enrollment in a managed care plan issued by the managed
9 care organization, inform the organization of the recipient's
10 Medicaid certification date;

11 (9) a requirement that the managed care organization
12 comply with Section 533.006 as a condition of contract retention
13 and renewal;

14 (10) a requirement that the managed care organization
15 provide the information required by Section 533.012 and otherwise
16 comply and cooperate with the [~~commission's~~] office of inspector
17 general;

18 (11) a requirement that the managed care
19 organization's usages of out-of-network providers or groups of
20 out-of-network providers may not exceed limits for those usages
21 relating to total inpatient admissions, total outpatient services,
22 and emergency room admissions determined by the commission;

23 (12) if the commission finds that a managed care
24 organization has violated Subdivision (11), a requirement that the
25 managed care organization reimburse an out-of-network provider for
26 health care services at a rate that is equal to the allowable rate
27 for those services, as determined under Sections 32.028 and

1 32.0281, Human Resources Code;

2 (13) a requirement that the organization use advanced
3 practice nurses in addition to physicians as primary care providers
4 to increase the availability of primary care providers in the
5 organization's provider network;

6 (14) a requirement that the managed care organization
7 reimburse a federally qualified health center or rural health
8 clinic for health care services provided to a recipient outside of
9 regular business hours, including on a weekend day or holiday, at a
10 rate that is equal to the allowable rate for those services as
11 determined under Section 32.028, Human Resources Code, if the
12 recipient does not have a referral from the recipient's primary
13 care physician; and

14 (15) a requirement that the managed care organization
15 develop, implement, and maintain a system for tracking and
16 resolving all provider appeals related to claims payment, including
17 a process that will require:

18 (A) a tracking mechanism to document the status
19 and final disposition of each provider's claims payment appeal;

20 (B) the contracting with physicians who are not
21 network providers and who are of the same or related specialty as
22 the appealing physician to resolve claims disputes related to
23 denial on the basis of medical necessity that remain unresolved
24 subsequent to a provider appeal; and

25 (C) the determination of the physician resolving
26 the dispute to be binding on the managed care organization and
27 provider.

1 SECTION 12. Section 533.012(c), Government Code, is amended
2 to read as follows:

3 (c) The [~~commission's~~] office of inspector general
4 [~~investigations and enforcement~~] shall review the information
5 submitted under this section as appropriate in the investigation of
6 fraud in the Medicaid managed care program. The comptroller may
7 review the information in connection with the health care fraud
8 study conducted by the comptroller.

9 SECTION 13. Section 32.070(d), Human Resources Code, is
10 amended to read as follows:

11 (d) This section does not apply to a computerized audit
12 conducted using the Medicaid Fraud Detection Audit System or an
13 audit or investigation of fraud and abuse conducted by the Medicaid
14 fraud control unit of the office of the attorney general, the office
15 of the state auditor, the office of [~~the~~] inspector general
16 appointed under Subchapter M, Chapter 531, Government Code, or the
17 Office of Inspector General in the United States Department of
18 Health and Human Services.

19 SECTION 14. Section 33.015(e), Human Resources Code, is
20 amended to read as follows:

21 (e) The department shall require a person exempted under
22 this section from making a personal appearance at department
23 offices to provide verification of the person's entitlement to the
24 exemption on initial eligibility certification and on each
25 subsequent periodic eligibility recertification. If the person
26 does not provide verification and the department considers the
27 verification necessary to protect the integrity of the food stamp

1 program, the department shall initiate a fraud referral to the
2 [~~department's~~] office of inspector general appointed under
3 Subchapter M, Chapter 531, Government Code.

4 SECTION 15. Sections 531.102 and 531.1021, Government Code,
5 are repealed.

6 SECTION 16. (a) The repeal by this Act of Section 531.102,
7 Government Code, does not affect the validity of a complaint,
8 investigation, or other proceeding initiated under that section
9 before the effective date of this Act. A complaint, investigation,
10 or other proceeding initiated under that section is continued in
11 accordance with the changes in law made by this Act.

12 (b) The repeal by this Act of Section 531.1021, Government
13 Code, does not affect the validity of a subpoena issued under that
14 section before the effective date of this Act. A subpoena issued
15 under that section before the effective date of this Act is governed
16 by the law that existed when the subpoena was issued, and the former
17 law is continued in effect for that purpose.

18 SECTION 17. (a) The person serving as inspector general
19 under Section 531.102(a-1), Government Code, on the effective date
20 of this Act shall serve as the inspector general appointed under
21 Subchapter M, Chapter 531, Government Code, as added by this Act,
22 until February 1, 2009, and may be reappointed under Subchapter M,
23 Chapter 531, if the person has the qualifications required under
24 that subchapter.

25 (b) Not later than February 1, 2009, the governor shall
26 appoint an inspector general for the Office of the Inspector
27 General under Subchapter M, Chapter 531, Government Code, as added

1 by this Act, to a term expiring February 1, 2011.

2 SECTION 18. On the effective date of this Act:

3 (1) all functions, activities, employees, rules,
4 forms, money, property, contracts, memorandums of understanding,
5 records, and obligations of the office of inspector general under
6 Section 531.102(a-1), Government Code, become functions,
7 activities, employees, rules, forms, money, property, contracts,
8 memorandums of understanding, records, and obligations of the
9 Office of the Inspector General appointed under Subchapter M,
10 Chapter 531, Government Code, as added by this Act, without a change
11 in status; and

12 (2) all money appropriated for the office of inspector
13 general under Section 531.102(a-1), Government Code, including
14 money for providing administrative support, is considered
15 appropriated to the Office of the Inspector General appointed under
16 Subchapter M, Chapter 531, Government Code, as added by this Act.

17 SECTION 19. This Act takes effect September 1, 2007.