

By: Laubenberg, Madden (Senate Sponsor - Hinojosa) H.B. No. 1433
(In the Senate - Received from the House May 10, 2007;
May 14, 2007, read first time and referred to Committee on Health
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favorable Committee Substitute by the following vote: Yeas 6,
Nays 0; May 19, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 1433

By: Uresti

A BILL TO BE ENTITLED
AN ACT

relating to audits, investigations, and reviews conducted in health
and human services programs and reimbursements under certain of
those programs.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is
amended by adding Sections 531.099 and 531.0991 to read as follows:

Sec. 531.099. TILE REIMBURSEMENT PAYMENTS. (a) In this
section, "TILE classification" means the classification assigned
under the Texas Index for Level of Effort classification system to a
nursing facility resident that quantifies the intensity of the care
needs of the resident and determines the daily reimbursement rate
for that care.

(b) The commission shall ensure that the rules governing
reimbursement payments to nursing facilities based on TILE
classifications:

(1) prescribe alternate methods a nursing facility may
use to submit required documentation and signatures, including
methods that allow for electronic forms submissions or electronic
or digital signatures;

(2) prescribe the method and manner by which, and the
period during which, a nursing facility must submit necessary
medical and claim documentation to the commission or the
commission's designee for reimbursement; and

(3) permit a nursing facility to identify
documentation errors related to reimbursement payments based on
TILE classifications and provide a process by which the nursing
facility may refund any money that was inappropriately paid as a
result of an identified documentation error.

Sec. 531.0991. RECONSIDERATION OF TILE CLASSIFICATION. (a)
In this section, "TILE classification" has the meaning assigned by
Section 531.099.

(b) If a nursing facility or hospice provider disagrees with
the commission's TILE classification of a nursing facility resident
and submits a reconsideration request for that classification as
provided by commission rules, the commission shall review and make
a determination on the request not later than the 60th day after the
date the commission receives the request.

(c) If the commission does not make a determination on a
reconsideration request during the period required by Subsection
(b), the TILE classification requested by the nursing facility or
hospice provider for the nursing facility resident is considered
granted, and that TILE classification and the associated daily
reimbursement rate is assigned to the resident retroactively to the
effective date of the incorrect TILE classification.

SECTION 2. Section 531.102, Government Code, is amended by
adding Subsections (h-1) and (l) and amending Subsections (j) and
(k) to read as follows:

(h-1) The inspector general may employ and commission peace
officers as investigators for the limited purpose of assisting the
inspector general in carrying out the duties of the office of
inspector general specified by Subsection (a). A commissioned
peace officer employed by the office of inspector general is not
entitled to supplemental benefits from the law enforcement and
custodial officer supplemental retirement fund under Title 8.

(j) The office shall prepare a final report on each audit, ~~[or] investigation, or review~~ the office conducts ~~[conducted]~~ under this subchapter or other law ~~[section]~~. The final report must include:

(1) a summary of the activities performed by the office in conducting the audit, ~~[or] investigation, or review~~;

(2) a statement regarding whether the audit, ~~[or] investigation, or review~~ resulted in a finding of any wrongdoing; and

(3) a description of any findings of wrongdoing.

(k) A final report on an audit, ~~[or] investigation, or review~~ is subject to required disclosure under Chapter 552. All information and materials compiled during the audit, ~~[or] investigation, or review~~ remain confidential and not subject to required disclosure in accordance with Section 531.1021(g).

(1) The office shall deliver a copy of each final report prepared in accordance with Subsection (j) to:

(1) the chief administrative officer of the agency that was the subject of the audit, investigation, or review or that administers the program that was the subject of the audit, investigation, or review;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor;

(6) law enforcement agencies and prosecutors, as appropriate; and

(7) licensing or certifying agencies, as appropriate.

SECTION 3. Section 531.1021(a), Government Code, is amended to read as follows:

(a) The ~~[office of]~~ inspector general may issue ~~[request that the commissioner or the commissioner's designee approve the issuance by the office of]~~ a subpoena in connection with an investigation conducted by the office. The ~~[If the request is approved, the]~~ office may issue the ~~[a]~~ subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

SECTION 4. The heading to Section 531.103, Government Code, is amended to read as follows:

Sec. 531.103. INTERAGENCY COORDINATION WITH ATTORNEY GENERAL.

SECTION 5. Section 531.103, Government Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The commission and the office of the attorney general shall jointly prepare and submit a semiannual report to the governor, lieutenant governor, speaker of the house of representatives, state auditor, and comptroller concerning the activities of those agencies in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program that is funded with state or federal money and is administered by the commission or a health and human services agency. The report may be consolidated with any other report relating to the same subject matter the commission or office of the attorney general is required to submit under other law.

(c-1) The report required by Subsection (c) must specifically describe the activities of the office of inspector general during the current state fiscal year, including separately describing each major investigation, audit, or review completed, and each action to prevent fraud or to assist another state agency taken, during that state fiscal year.

SECTION 6. Subchapter C, Chapter 531, Government Code, is amended by adding Sections 531.1041, 531.1042, and 531.1043 to read as follows:

Sec. 531.1041. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) The inspector general may request that the state auditor provide information or other assistance to the inspector general, and the state auditor may provide the information or assistance as the state auditor determines appropriate.

(b) The inspector general may meet with the state auditor's office to:

(1) coordinate an audit, investigation, or other review conducted under this subchapter;

(2) share information; or

(3) schedule work plans.

(c) The state auditor is entitled to have access to all information maintained by the inspector general, including:

(1) information that is confidential under state or federal law; and

(2) vouchers, electronic data, and internal records.

(d) Information that is provided by or to the state auditor under this section is confidential and not subject to disclosure under Chapter 552.

Sec. 531.1042. STATE AUDITOR AUDITS, INVESTIGATIONS, AND REVIEWS AND ACCESS TO INFORMATION NOT AFFECTED. This chapter and any other law relating to the operation of the office of inspector general do not:

(1) prohibit the state auditor from conducting an audit, investigation, or review or from having complete access to all records and other information, including witnesses and electronic data, that the state auditor considers necessary for an audit, investigation, or review; or

(2) affect the state auditor's authority to conduct an audit, investigation, or review under Chapter 321 or other law.

Sec. 531.1043. REPORTS TO GOVERNOR AND STATE AUDITOR. (a) The inspector general shall inform the governor and the state auditor in a timely manner of the initiation of an audit, investigation, or review under this subchapter and the status of each ongoing audit, investigation, and review.

(b) The inspector general shall immediately report to the general counsel of the governor and to the state auditor any problem relating to the operation or administration of a program administered by the commission or a health and human services agency or any interference with an audit, investigation, or review that the inspector general considers particularly serious or flagrant.

SECTION 7. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6) law enforcement agents of the Texas Alcoholic Beverage Commission;

(7) each member of an arson investigating unit commissioned by a city, a county, or the state;

(8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9) officers commissioned by the General Services Commission;

(10) law enforcement officers commissioned by the Parks and Wildlife Commission;

(11) airport police officers commissioned by a city with a population of more than 1.18 million that operates an airport that serves commercial air carriers;

(12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;

(13) municipal park and recreational patrolmen and security officers;

(14) security officers and investigators commissioned as peace officers by the comptroller;

(15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(16) officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(17) investigators commissioned by the Texas Medical [State] Board [of Medical Examiners];

(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;

(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(20) investigators employed by the Texas Racing Commission;

(21) officers commissioned under Chapter 554, Occupations Code;

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(23) investigators commissioned by the attorney general under Section 402.009, Government Code;

(24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(25) an officer employed by the [Texas] Department of State Health Services under Section 431.2471, Health and Safety Code;

(26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(27) officers commissioned by the state fire marshal under Chapter 417, Government Code;

(28) an investigator commissioned by the commissioner of insurance under Section 701.104 [Article 1.10D], Insurance Code;

(29) apprehension specialists commissioned by the Texas Youth Commission as officers under Section 61.0931, Human Resources Code;

(30) officers appointed by the executive director of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas [Commission on] Private Security Board under Section 1702.061(f), Occupations Code;

(33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; ~~and~~

(34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; and

(35) officers employed or commissioned by the office of inspector general under Subchapter C, Chapter 531, Government Code.

SECTION 8. Section 531.0991, Government Code, as added by this Act, applies to a reimbursement reconsideration request submitted by a nursing facility or hospice provider on or after the effective date of this Act.

SECTION 9. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision,

5-1 the agency affected by the provision shall request the waiver or
5-2 authorization and may delay implementing that provision until the
5-3 waiver or authorization is granted.

5-4 SECTION 10. This Act takes effect September 1, 2007.

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