

By: Turner

H.B. No. 2877

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

(4-a) "Office of inspector general" means the office of inspector general established under Section 531.102.

SECTION 2. Section 531.008(c), Government Code, is amended to read as follows:

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

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

(A) the child health plan program;

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

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

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

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

(F) community-based support services identified

1 or provided in accordance with Section 531.02481; and

2 (G) other health and human services programs, as
3 appropriate;

4 (2) [~~the office of inspector general to perform fraud~~
5 ~~and abuse investigation and enforcement functions as provided by~~
6 ~~Subchapter C and other law;~~]

7 [~~(3)~~] the office of the ombudsman to:

8 (A) provide dispute resolution services for the
9 commission and the health and human services agencies; and

10 (B) perform consumer protection functions
11 related to health and human services;

12 (3) [~~(4)~~] a purchasing division as provided by Section
13 531.017; and

14 (4) [~~(5)~~] an internal audit division to conduct a
15 program of internal auditing in accordance with [~~Government Code,~~]
16 Chapter 2102.

17 SECTION 3. Sections 531.101(a) and (b), Government Code,
18 are amended to read as follows:

19 (a) The office of inspector general [~~commission~~] may grant
20 an award to an individual who reports activity that constitutes
21 fraud or abuse of funds in the state Medicaid program or reports
22 overcharges in the program if the office [~~commission~~] determines
23 that the disclosure results in the recovery of an administrative
24 penalty imposed under Section 32.039, Human Resources Code. The
25 office [~~commission~~] may not grant an award to an individual in
26 connection with a report if the office [~~commission~~] or attorney
27 general had independent knowledge of the activity reported by the

1 individual.

2 (b) The office of inspector general [~~commission~~] shall
3 determine the amount of an award. The award may not exceed five
4 percent of the amount of the administrative penalty imposed under
5 Section 32.039, Human Resources Code, that resulted from the
6 individual's disclosure. In determining the amount of the award,
7 the office [~~commission~~] shall consider how important the disclosure
8 is in ensuring the fiscal integrity of the program. The office
9 [~~commission~~] may also consider whether the individual participated
10 in the fraud, abuse, or overcharge.

11 SECTION 4. Section 531.102, Government Code, is amended by
12 amending Subsections (a) through (h) and adding Subsections (a-2),
13 (a-3), (h-1), and (l) through (n) to read as follows:

14 (a) The Office of Inspector General [~~commission, through~~
15 ~~the commission's office of inspector general,~~] is an agency of this
16 state responsible for the investigation of fraud, waste, and abuse,
17 the enforcement of the laws protecting the public safety, the
18 prevention and detection of crime [~~responsible for the~~
19 ~~investigation of fraud and abuse]~~ in the provision of health and
20 human services, and the enforcement of state law relating to the
21 provision of those services.

22 (a-1) The office of inspector general is administratively
23 attached to the commission. As necessary for the office to meet its
24 responsibilities under this subchapter or other law, the commission
25 shall:

26 (1) provide the office with administrative support
27 services, including staff, from the commission and from the health

1 and human services agencies;

2 (2) enter into a service level agreement with the
3 office that establishes the performance standards and deliverables
4 with regard to administrative support by the commission and
5 together with the office review the agreement at least annually to
6 ensure that services and deliverables are provided in accordance
7 with the agreement; and

8 (3) request or apply for, and receive for the office,
9 any appropriation or other money from this state or the federal
10 government in accordance with Subsection (n).

11 (a-2) The office [commission] may obtain any information or
12 technology necessary to enable the office to meet its
13 responsibilities under this subchapter or other law.

14 (a-3) [(a-1)] The governor shall appoint an inspector
15 general to serve as director of the office. The inspector general
16 serves a two-year [one-year] term that expires on February 1 of each
17 odd-numbered year.

18 (b) The [~~commission, in consultation with the~~] inspector
19 general[7] shall set clear objectives, priorities, and performance
20 standards for the office that 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 in accordance with Section

1 531.103.

2 (c) The inspector general [~~commission~~] shall train office
3 staff whose duties may involve health and human services matters to
4 enable the staff to pursue priority Medicaid and other health and
5 human services fraud, waste, and abuse cases as necessary.

6 (d) The commission shall [~~may~~] require employees of health
7 and human services agencies to provide assistance to the office of of
8 inspector general in connection with the office's duties relating
9 to the investigation of fraud, waste, and abuse in the provision of
10 health and human services. The office is entitled to access to any
11 information maintained by a health and human services agency or any
12 other state agency, including internal records, relevant to the
13 functions of the office.

14 (e) The [~~commission, in consultation with the~~] inspector
15 general[~~7~~] by rule shall set specific claims criteria that, when
16 met, require the office to begin an investigation.

17 (f)(1) If the inspector general or any health and human
18 services agency [~~commission~~] receives a complaint of Medicaid
19 fraud, waste, or abuse from any source, the office of of inspector
20 general must conduct an integrity review to determine whether there
21 is sufficient basis to warrant a full investigation. The
22 commission or a health and human services agency shall immediately
23 forward to the office a complaint received by the commission or the
24 agency under this subdivision. An integrity review must begin not
25 later than the 30th day after the date the inspector general
26 [~~commission~~] receives a complaint directly or from the commission
27 or a health and human services agency or has reason to believe that

1 fraud, waste, or abuse has occurred. An integrity review shall be
2 completed not later than the 90th day after it began.

3 (2) If the findings of an integrity review give the
4 office of inspector general reason to believe that an incident [~~of~~
5 ~~fraud or abuse~~] involving possible criminal conduct has occurred in
6 the Medicaid program, the office must take the following action, as
7 appropriate, not later than the 30th day after the completion of the
8 integrity review:

9 (A) if a provider is suspected of [~~fraud or abuse~~
10 ~~involving~~] criminal conduct, the office must refer the case to the
11 state's Medicaid fraud control unit, provided that the criminal
12 referral does not preclude the office from continuing its
13 investigation of the provider, which investigation may lead to the
14 imposition of appropriate administrative or civil sanctions; or

15 (B) if there is reason to believe that a
16 recipient has defrauded the Medicaid program, the inspector general
17 [~~office~~] may conduct a full investigation of the suspected fraud.

18 (g)(1) Whenever the office of inspector general learns or
19 has reason to suspect that a provider's records in the Medicaid
20 program are being withheld, concealed, destroyed, fabricated, or in
21 any way falsified, the office shall immediately refer the case to
22 the state's Medicaid fraud control unit. However, such criminal
23 referral does not preclude the office from continuing its
24 investigation of the provider, which investigation may lead to the
25 imposition of appropriate administrative or civil sanctions.

26 (2) In addition to other instances authorized under
27 state or federal law, the office of inspector general shall impose

1 without prior notice a hold on payment of claims for reimbursement
2 submitted by a provider to compel production of records or when
3 requested by the state's Medicaid fraud control unit, as
4 applicable. The office must notify the provider of the hold on
5 payment not later than the fifth working day after the date the
6 payment hold is imposed.

7 (3) On timely written request by a provider subject to
8 a hold on payment under Subdivision (2), other than a hold requested
9 by the state's Medicaid fraud control unit, the office of inspector
10 general shall file a request with the State Office of
11 Administrative Hearings for an expedited administrative hearing
12 regarding the hold. The provider must request an expedited hearing
13 under this subdivision not later than the 10th day after the date
14 the provider receives notice from the office under Subdivision (2).

15 (4) The inspector general [~~commission~~] shall adopt
16 rules that allow a provider subject to a hold on payment under
17 Subdivision (2), other than a hold requested by the state's
18 Medicaid fraud control unit, to seek an informal resolution of the
19 issues identified by the office of inspector general in the notice
20 provided under that subdivision. A provider must seek an informal
21 resolution under this subdivision not later than the deadline
22 prescribed by Subdivision (3). A provider's decision to seek an
23 informal resolution under this subdivision does not extend the time
24 by which the provider must request an expedited administrative
25 hearing under Subdivision (3). However, a hearing initiated under
26 Subdivision (3) shall be stayed at the office's request until the
27 informal resolution process is completed.

1 (5) The inspector general [~~office~~] shall, in
2 consultation with the state's Medicaid fraud control unit,
3 establish guidelines under which holds on payment or program
4 exclusions:

5 (A) may permissively be imposed on a provider; or

6 (B) shall automatically be imposed on a provider.

7 (h) In addition to performing functions and duties
8 otherwise provided by law, the office of inspector general may:

9 (1) assess administrative penalties otherwise
10 authorized by law on behalf of the commission or a health and human
11 services agency and retain from amounts collected funds sufficient
12 to cover investigative and collection costs;

13 (2) request that the attorney general obtain an
14 injunction to prevent a person from disposing of an asset
15 identified by the office as potentially subject to recovery by the
16 office due to the person's fraud or abuse;

17 (3) provide for coordination between the office and
18 special investigative units formed by managed care organizations
19 under Section 531.113 or entities with which managed care
20 organizations contract under that section;

21 (4) audit the use and effectiveness of state or
22 federal health and human services funds, including contract and
23 grant funds, administered by a person or state [~~agency receiving~~
24 ~~the funds from a~~] health and human services agency;

25 (5) conduct investigations relating to the funds
26 described by Subdivision (4); [~~and~~]

27 (6) recommend policies promoting economical and

1 efficient administration of the funds described by Subdivision (4)
2 and the prevention and detection of fraud, waste, and abuse in
3 administration of those funds;

4 (7) commission and employ peace officers to carry out
5 duties within the scope of the duties of office of inspector
6 general; and

7 (8) conduct reviews and inspections to protect the
8 public and to detect and prevent fraud, waste, and abuse in the
9 provision of health and human services.

10 (h-1) The number of commissioned peace officers employed by
11 the office of inspector general may not exceed 10 percent of the
12 office's full-time equivalent positions. A commissioned peace
13 officer or other designated law enforcement officer employed by the
14 office is not entitled to supplemental benefits from the law
15 enforcement and custodial officer supplemental retirement fund
16 under Title 8.

17 (l) The inspector general shall conduct internal affairs
18 investigations in instances of fraud, waste, and abuse and in
19 instances of misconduct by employees, contractors, subcontractors,
20 and vendors.

21 (m) Notwithstanding Section 531.0055(e) or other law, the
22 inspector general may adopt rules as necessary to administer the
23 functions of the office of inspector general.

24 (n) The inspector general shall submit a budget in
25 accordance with the General Appropriations Act and general law.
26 The inspector general shall submit to the commission a legislative
27 appropriations request or an operating budget, as appropriate. The

1 request or budget submitted is not subject to review, alteration,
2 or modification by the commission or executive commissioner before
3 submission to the Governor's Office of Budget, Planning, and Policy
4 and the Legislative Budget Board.

5 SECTION 5. Section 531.1021(a), Government Code, is amended
6 to read as follows:

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

16 SECTION 6. Sections 531.103(a), (c), and (d), Government
17 Code, are amended to read as follows:

18 (a) The [~~commission, acting through the commission's~~]
19 office of inspector general[~~7~~] and the office of the attorney
20 general shall enter into a memorandum of understanding to develop
21 and implement joint written procedures for processing cases of
22 suspected fraud, waste, or abuse, as those terms are defined by
23 state or federal law, or other violations of state or federal law
24 under the state Medicaid program or other program administered by
25 the commission or a health and human services agency, including the
26 financial assistance program under Chapter 31, Human Resources
27 Code, a nutritional assistance program under Chapter 33, Human

1 Resources Code, and the child health plan program. The memorandum
2 of understanding shall require:

3 (1) the office of inspector general and the office of
4 the attorney general to set priorities and guidelines for referring
5 cases to appropriate state agencies for investigation,
6 prosecution, or other disposition to enhance deterrence of fraud,
7 waste, abuse, or other violations of state or federal law,
8 including a violation of Chapter 102, Occupations Code, in the
9 programs and maximize the imposition of penalties, the recovery of
10 money, and the successful prosecution of cases;

11 (1-a) the office of inspector general to refer each
12 case of suspected provider fraud, waste, or abuse to the office of
13 the attorney general not later than the 20th business day after the
14 date the office of inspector general determines that the existence
15 of fraud, waste, or abuse is reasonably indicated;

16 (1-b) the office of the attorney general to take
17 appropriate action in response to each case referred to the
18 attorney general, which action may include direct initiation of
19 prosecution, with the consent of the appropriate local district or
20 county attorney, direct initiation of civil litigation, referral to
21 an appropriate United States attorney, a district attorney, or a
22 county attorney, or referral to a collections agency for initiation
23 of civil litigation or other appropriate action;

24 (2) the office of inspector general to keep detailed
25 records for cases processed by that office or the office of the
26 attorney general, including information on the total number of
27 cases processed and, for each case:

1 (A) the agency and division to which the case is
2 referred for investigation;

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

4 (C) the nature of the suspected fraud, waste, or
5 abuse;

6 (3) the office of inspector general to notify each
7 appropriate division of the office of the attorney general of each
8 case referred by the office of inspector general;

9 (4) the office of the attorney general to ensure that
10 information relating to each case investigated by that office is
11 available to each division of the office with responsibility for
12 investigating suspected fraud, waste, or abuse;

13 (5) the office of the attorney general to notify the
14 office of inspector general of each case the attorney general
15 declines to prosecute or prosecutes unsuccessfully;

16 (6) representatives of the office of inspector general
17 and of the office of the attorney general to meet not less than
18 quarterly to share case information and determine the appropriate
19 agency and division to investigate each case; and

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

24 (c) The office of inspector general [~~commission~~] and the
25 office of the attorney general shall jointly prepare and submit a
26 semiannual report to the governor, lieutenant governor, speaker of
27 the house of representatives, presiding officers of each house and

1 senate committee having jurisdiction over health and human services
2 programs, and comptroller concerning the activities of the office
3 of the attorney general and the office of inspector general [~~these~~
4 ~~agencies~~] in detecting and preventing fraud, waste, and abuse under
5 the state Medicaid program or other program administered by the
6 commission or a health and human services agency. The report may be
7 consolidated with any other report relating to the same subject
8 matter the office of inspector general [~~commission~~] or office of
9 the attorney general is required to submit under other law.

10 (d) The office of inspector general [~~commission~~] and the
11 office of the attorney general may not assess or collect
12 investigation and attorney's fees on behalf of any state agency
13 unless the office of inspector general, the office of the attorney
14 general, or another [~~other~~] state agency collects a penalty,
15 restitution, or other reimbursement payment to the state.

16 SECTION 7. Section 531.104(a), Government Code, is amended
17 to read as follows:

18 (a) The office of inspector general [~~commission~~] and the
19 attorney general shall execute a memorandum of understanding under
20 which the office [~~commission~~] shall provide investigative support
21 as required to the attorney general in connection with cases under
22 Subchapter B, Chapter 36, Human Resources Code. Under the
23 memorandum of understanding, the office [~~commission~~] shall assist
24 in performing preliminary investigations and ongoing
25 investigations for actions prosecuted by the attorney general under
26 Subchapter C, Chapter 36, Human Resources Code.

27 SECTION 8. Section 531.105, Government Code, is amended to

1 read as follows:

2 Sec. 531.105. FRAUD DETECTION TRAINING. (a) The office of
3 inspector general [~~commission~~] shall develop and implement a
4 program to provide annual training to contractors who process
5 Medicaid claims and appropriate staff of the health and human
6 services agencies [~~Texas Department of Health and the Texas~~
7 ~~Department of Human Services~~] in identifying potential cases of
8 fraud, waste, or abuse under the state Medicaid program. The
9 training provided to the contractors and staff must include clear
10 criteria that specify:

11 (1) the circumstances under which a person should
12 refer a potential case to the office [~~commission~~]; and

13 (2) the time by which a referral should be made.

14 (b) The commission and each health and human services agency
15 [~~Texas Department of Health and the Texas Department of Human~~
16 ~~Services~~], in cooperation with the office of inspector general
17 [~~commission~~], shall periodically set a goal of the number of
18 potential cases of fraud, waste, or abuse under the state Medicaid
19 program that each agency will attempt to identify and refer to the
20 office [~~commission~~]. The office [~~commission~~] shall include
21 information on the agencies' goals and the success of each agency in
22 meeting the agency's goal in the report required by Section
23 531.103(c).

24 SECTION 9. Sections 531.106(a), (b), (d), (e), (f), and
25 (g), Government Code, are amended to read as follows:

26 (a) The office of inspector general [~~commission~~] shall use
27 learning or neural network technology to identify and deter fraud

1 in the Medicaid program throughout this state.

2 (b) The office of inspector general [~~commission~~] shall
3 contract with a private or public entity to develop and implement
4 the technology. The office [~~commission~~] may require the entity it
5 contracts with to install and operate the technology at locations
6 specified by the office [~~commission, including commission~~
7 ~~offices~~].

8 (d) The office of inspector general [~~commission~~] shall
9 require each health and human services agency that performs any
10 aspect of the state Medicaid program to participate in the
11 implementation and use of the technology.

12 (e) The office of inspector general [~~commission~~] shall
13 maintain all information necessary to apply the technology to
14 claims data covering a period of at least two years.

15 (f) Cases [~~The commission shall refer cases~~] identified by
16 the technology shall be referred to the [~~commission's~~] office of
17 inspector general [~~investigations and enforcement~~] or the office of
18 the attorney general, as appropriate.

19 (g) Each month, the learning or neural network technology
20 implemented under this section must match bureau of vital
21 statistics death records with Medicaid claims filed by a provider.
22 If the commission or the office of inspector general determines
23 that a provider has filed a claim for services provided to a person
24 after the person's date of death, as determined by the bureau of
25 vital statistics death records, [~~the commission shall refer~~] the
26 case shall be referred for investigation to the office of inspector
27 general or the office of the attorney general, as appropriate [~~to~~]

1 ~~the commission's office of investigations and enforcement~~].

2 SECTION 10. Section 531.1061, Government Code, is amended
3 to read as follows:

4 Sec. 531.1061. FRAUD INVESTIGATION TRACKING SYSTEM. (a)
5 The office of inspector general [~~commission~~] shall use an automated
6 fraud investigation tracking system [~~through the commission's~~
7 ~~office of investigations and enforcement~~] to monitor the progress
8 of an investigation of suspected fraud, waste, abuse, or
9 insufficient quality of care under the state Medicaid program.

10 (b) For each case of suspected fraud, waste, abuse, or
11 insufficient quality of care identified by the learning or neural
12 network technology required under Section 531.106, the automated
13 fraud investigation tracking system must:

14 (1) receive electronically transferred records
15 relating to the identified case from the learning or neural network
16 technology;

17 (2) record the details and monitor the status of an
18 investigation of the identified case, including maintaining a
19 record of the beginning and completion dates for each phase of the
20 case investigation;

21 (3) generate documents and reports related to the
22 status of the case investigation; and

23 (4) generate standard letters to a provider regarding
24 the status or outcome of an investigation.

25 (c) The office of inspector general may [~~commission shall~~]
26 require each health and human services agency that performs any
27 aspect of the state Medicaid program to participate in the

1 implementation and use of the automated fraud investigation
2 tracking system.

3 SECTION 11. Section 531.1062(a), Government Code, is
4 amended to read as follows:

5 (a) The office of inspector general [~~commission~~] shall use
6 an automated recovery monitoring system to monitor the collections
7 process for a settled case of fraud, waste, abuse, or insufficient
8 quality of care under the state Medicaid program.

9 SECTION 12. Sections 531.107(a), (b), and (f), Government
10 Code, are amended to read as follows:

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

15 (b) The task force is composed of a representative of the:

16 (1) attorney general's office, appointed by the
17 attorney general;

18 (2) comptroller's office, appointed by the
19 comptroller;

20 (3) Department of Public Safety, appointed by the
21 public safety director;

22 (4) state auditor's office, appointed by the state
23 auditor;

24 (5) office of inspector general [~~commission~~],
25 appointed by the inspector general [~~commissioner of health and~~
26 ~~human services~~];

27 (6) [~~Texas~~] Department of Aging and Disability [~~Human~~]

1 Services, appointed by the commissioner of aging and disability
2 ~~[human]~~ services;

3 (7) Texas Department of Insurance, appointed by the
4 commissioner of insurance; and

5 (8) ~~[Texas]~~ Department of State Health Services,
6 appointed by the commissioner of state ~~[public]~~ health services.

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

10 (1) information detailing:

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

13 (B) the time spent investigating each case;

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

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

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

20 (2) any additional information the task force
21 requires.

22 SECTION 13. Sections 531.108 and 531.109, Government Code,
23 are amended to read as follows:

24 Sec. 531.108. FRAUD PREVENTION. (a) The ~~[commission's]~~
25 office of inspector general ~~[investigations and enforcement]~~ shall
26 compile and disseminate accurate information and statistics
27 relating to:

1 (1) fraud prevention; and

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

5 (b) The office of inspector general [~~commission~~] shall:

6 (1) aggressively publicize successful fraud
7 prosecutions and fraud-prevention programs through all available
8 means, including the use of statewide press releases [~~issued in~~
9 ~~coordination with the Texas Department of Human Services~~]; and

10 (2) ensure that a toll-free hotline for reporting
11 suspected fraud in programs administered by the office, the
12 commission, or a health and human services agency is maintained and
13 promoted[~~either~~] by the office, the commission, or [~~by~~] a health
14 and human services agency.

15 (c) The office of inspector general [~~commission~~] shall
16 develop a cost-effective method of identifying applicants for
17 public assistance in counties bordering other states and in
18 metropolitan areas selected by the office [~~commission~~] who are
19 already receiving benefits in other states. If economically
20 feasible, the office [~~commission~~] may develop a computerized
21 matching system.

22 (d) The office of inspector general [~~commission~~] shall:

23 (1) verify automobile information that is used as
24 criteria for eligibility; and

25 (2) establish a computerized matching system with the
26 Texas Department of Criminal Justice to prevent an incarcerated
27 individual from illegally receiving public assistance benefits

1 administered by the commission.

2 (e) The office of inspector general [~~commission~~] shall
3 submit to the governor and Legislative Budget Board a semiannual
4 report on the results of computerized matching of office and
5 commission information with information from neighboring states,
6 if any, and information from the Texas Department of Criminal
7 Justice. The report may be consolidated with any other report
8 relating to the same subject matter the office [~~commission~~] is
9 required to submit under other law.

10 Sec. 531.109. SELECTION AND REVIEW OF CLAIMS. (a) The
11 office of inspector general [~~commission~~] shall annually select and
12 review a random, statistically valid sample of all claims for
13 reimbursement under the state Medicaid program, including the
14 vendor drug program, for potential cases of fraud, waste, or abuse.

15 (b) In conducting the annual review of claims under
16 Subsection (a), the office of inspector general [~~commission~~] may
17 directly contact a recipient by telephone or in person, or both, to
18 verify that the services for which a claim for reimbursement was
19 submitted by a provider were actually provided to the recipient.

20 (c) Based on the results of the annual review of claims, the
21 office of inspector general and the commission shall determine the
22 types of claims at which office and commission resources for fraud,
23 waste, and abuse detection should be primarily directed.

24 SECTION 14. Sections 531.110(a), (c), (d), (e), and (f),
25 Government Code, are amended to read as follows:

26 (a) The office of inspector general [~~commission~~] shall
27 conduct electronic data matches for a recipient of assistance under

1 the state Medicaid program at least quarterly to verify the
2 identity, income, employment status, and other factors that affect
3 the eligibility of the recipient.

4 (c) The commission and each health and human services agency
5 [~~Texas Department of Human Services~~] shall cooperate with the
6 office of inspector general [~~commission~~] by providing data or any
7 other assistance necessary to conduct the electronic data matches
8 required by this section.

9 (d) The office of inspector general [~~commission~~] may
10 contract with a public or private entity to conduct the electronic
11 data matches required by this section.

12 (e) The office of inspector general [~~commission~~], or a
13 health and human services agency designated by the office
14 [~~commission~~], by rule shall establish procedures to verify the
15 electronic data matches conducted by the office [~~commission~~] under
16 this section. Not later than the 20th day after the date the
17 electronic data match is verified, the commission or the health and
18 human services agency, as applicable, [~~Texas Department of Human~~
19 ~~Services~~] shall remove from eligibility a recipient who is
20 determined to be ineligible for assistance under the state Medicaid
21 program.

22 (f) The office of inspector general [~~commission~~] shall
23 report biennially to the legislature the results of the electronic
24 data matching program. The report must include a summary of the
25 number of applicants who were removed from eligibility for
26 assistance under the state Medicaid program as a result of an
27 electronic data match conducted under this section.

1 SECTION 15. Section 531.111, Government Code, is amended to
2 read as follows:

3 Sec. 531.111. FRAUD DETECTION TECHNOLOGY. The office of
4 inspector general [~~commission~~] may contract with a contractor who
5 specializes in developing technology capable of identifying
6 patterns of fraud exhibited by Medicaid recipients to:

7 (1) develop and implement the fraud detection
8 technology; and

9 (2) determine if a pattern of fraud by Medicaid
10 recipients is present in the recipients' eligibility files
11 maintained by the commission or a health and human services agency
12 [~~Texas Department of Human Services~~].

13 SECTION 16. Section 531.113, Government Code, is amended to
14 read as follows:

15 Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL
16 INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care
17 organization that provides or arranges for the provision of health
18 care services to an individual under a government-funded program,
19 including the Medicaid program and the child health plan program,
20 shall:

21 (1) establish and maintain a special investigative
22 unit within the managed care organization to investigate fraudulent
23 claims and other types of program waste or abuse by recipients and
24 service providers; or

25 (2) contract with another entity for the investigation
26 of fraudulent claims and other types of program waste or abuse by
27 recipients and service providers.

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

5 (1) a description of the managed care organization's
6 procedures for detecting and investigating possible acts of fraud,
7 waste, or abuse;

8 (2) a description of the managed care organization's
9 procedures for the mandatory reporting of possible acts of fraud,
10 waste, or abuse to the [~~commission's~~] office of inspector general;

11 (3) a description of the managed care organization's
12 procedures for educating and training personnel to prevent fraud,
13 waste, and abuse;

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

16 (5) a description or chart outlining the
17 organizational arrangement of the managed care organization's
18 personnel responsible for investigating and reporting possible
19 acts of fraud, waste, or abuse;

20 (6) a detailed description of the results of
21 investigations of fraud, waste, and abuse conducted by the managed
22 care organization's special investigative unit or the entity with
23 which the managed care organization contracts under Subsection
24 (a)(2); and

25 (7) provisions for maintaining the confidentiality of
26 any patient information relevant to an investigation of fraud,
27 waste, or abuse.

1 (c) If a managed care organization contracts for the
2 investigation of fraudulent claims and other types of program waste
3 or abuse by recipients and service providers under Subsection
4 (a)(2), the managed care organization shall file with the
5 ~~[commission's]~~ office of inspector general:

6 (1) a copy of the written contract;

7 (2) the names, addresses, telephone numbers, and fax
8 numbers of the principals of the entity with which the managed care
9 organization has contracted; and

10 (3) a description of the qualifications of the
11 principals of the entity with which the managed care organization
12 has contracted.

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

16 (e) The inspector general ~~[commissioner]~~ shall adopt rules
17 as necessary to accomplish the purposes of this section.

18 SECTION 17. Sections 531.114(b) and (g), Government Code,
19 are amended to read as follows:

20 (b) If after an investigation the office of inspector
21 general ~~[commission]~~ determines that a person violated Subsection
22 (a), the office ~~[commission]~~ shall:

23 (1) notify the person of the alleged violation not
24 later than the 30th day after the date the office ~~[commission]~~
25 completes the investigation and provide the person with an
26 opportunity for a hearing on the matter; or

27 (2) refer the matter to the appropriate prosecuting

1 attorney for prosecution.

2 (g) The inspector general [~~commission~~] shall adopt rules as
3 necessary to implement this section.

4 SECTION 18. Section 531.115, Government Code, is amended to
5 read as follows:

6 Sec. 531.115. FEDERAL FELONY MATCH. The office of
7 inspector general [~~commission~~] shall develop and implement a system
8 to cross-reference data collected for the programs listed under
9 Section 531.008(c) with the list of fugitive felons maintained by
10 the federal government.

11 SECTION 19. Section 533.001, Government Code, is amended by
12 adding Subdivision (5-a) to read as follows:

13 (5-a) "Office of inspector general" means the office
14 of inspector general established under Section 531.102.

15 SECTION 20. Section 533.005(a), Government Code, is amended
16 to read as follows:

17 (a) A contract between a managed care organization and the
18 commission for the organization to provide health care services to
19 recipients must contain:

20 (1) procedures to ensure accountability to the state
21 for the provision of health care services, including procedures for
22 financial reporting, quality assurance, utilization review, and
23 assurance of contract and subcontract compliance;

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

26 (3) a requirement that the managed care organization
27 provide ready access to a person who assists recipients in

1 resolving issues relating to enrollment, plan administration,
2 education and training, access to services, and grievance
3 procedures;

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

8 (5) a requirement that the managed care organization
9 provide information and referral about the availability of
10 educational, social, and other community services that could
11 benefit a recipient;

12 (6) procedures for recipient outreach and education;

13 (7) a requirement that the managed care organization
14 make payment to a physician or provider for health care services
15 rendered to a recipient under a managed care plan not later than the
16 45th day after the date a claim for payment is received with
17 documentation reasonably necessary for the managed care
18 organization to process the claim, or within a period, not to exceed
19 60 days, specified by a written agreement between the physician or
20 provider and the managed care organization;

21 (8) a requirement that the commission, on the date of a
22 recipient's enrollment in a managed care plan issued by the managed
23 care organization, inform the organization of the recipient's
24 Medicaid certification date;

25 (9) a requirement that the managed care organization
26 comply with Section 533.006 as a condition of contract retention
27 and renewal;

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

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

10 (12) if the commission finds that a managed care
11 organization has violated Subdivision (11), a requirement that the
12 managed care organization reimburse an out-of-network provider for
13 health care services at a rate that is equal to the allowable rate
14 for those services, as determined under Sections 32.028 and
15 32.0281, Human Resources Code;

16 (13) a requirement that the organization use advanced
17 practice nurses in addition to physicians as primary care providers
18 to increase the availability of primary care providers in the
19 organization's provider network;

20 (14) a requirement that the managed care organization
21 reimburse a federally qualified health center or rural health
22 clinic for health care services provided to a recipient outside of
23 regular business hours, including on a weekend day or holiday, at a
24 rate that is equal to the allowable rate for those services as
25 determined under Section 32.028, Human Resources Code, if the
26 recipient does not have a referral from the recipient's primary
27 care physician; and

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

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

7 (B) the contracting with physicians who are not
8 network providers and who are of the same or related specialty as
9 the appealing physician to resolve claims disputes related to
10 denial on the basis of medical necessity that remain unresolved
11 subsequent to a provider appeal; and

12 (C) the determination of the physician resolving
13 the dispute to be binding on the managed care organization and
14 provider.

15 SECTION 21. Section 533.012(c), Government Code, is amended
16 to read as follows:

17 (c) The [~~commission's~~] office of inspector general
18 [~~investigations and enforcement~~] shall review the information
19 submitted under this section as appropriate in the investigation of
20 fraud in the Medicaid managed care program. The comptroller may
21 review the information in connection with the health care fraud
22 study conducted by the comptroller.

23 SECTION 22. Section 2054.376(b), Government Code, is
24 amended to read as follows:

25 (b) This subchapter does not apply to:

26 (1) the Department of Public Safety's use for criminal
27 justice or homeland security purposes of a federal database or

1 network;

2 (2) a Texas equivalent of a database or network
3 described by Subdivision (1) that is managed by the Department of
4 Public Safety;

5 (3) the uniform statewide accounting system, as that
6 term is used in Subchapter C, Chapter 2101;

7 (4) the state treasury cash and treasury management
8 system; [~~or~~]

9 (5) a database or network managed by the comptroller
10 to:

11 (A) collect and process multiple types of taxes
12 imposed by the state; or

13 (B) manage or administer fiscal, financial,
14 revenue, and expenditure activities of the state under Chapter 403
15 and Chapter 404; or

16 (6) the use of a federal or state database or network
17 by the office of inspector general established under Section
18 531.102 or by the Health and Human Services Commission for criminal
19 justice purposes or to maintain information that is confidential by
20 statute or under federal regulations.

21 SECTION 23. Section 32.003, Human Resources Code, is
22 amended by adding Subdivision (5) to read as follows:

23 (5) "Office of inspector general" means the office
24 established under Section 531.102, Government Code, that is
25 responsible for the investigation, review, and audit of possible
26 fraud, waste, and abuse in the provision of health and human
27 services and the enforcement of state law relating to the provision

1 of those services.

2 SECTION 24. Section 32.0291, Human Resources Code, is
3 amended to read as follows:

4 Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

5 (a) Notwithstanding any other law, the office of inspector general
6 or department may:

7 (1) perform a prepayment review of a claim for
8 reimbursement under the medical assistance program to determine
9 whether the claim involves fraud, waste, or abuse; and

10 (2) as necessary to perform that review, withhold
11 payment of the claim for not more than five working days without
12 notice to the person submitting the claim.

13 (b) Notwithstanding any other law, the office of inspector
14 general [~~department~~] may impose a postpayment hold on payment of
15 future claims submitted by a provider if the office [~~department~~]
16 has reliable evidence that the provider has committed fraud, waste,
17 abuse, or wilful misrepresentation regarding a claim for
18 reimbursement under the medical assistance program. The office
19 [~~department~~] must notify the provider of the postpayment hold not
20 later than the fifth working day after the date the hold is imposed.

21 (c) On timely written request by a provider subject to a
22 postpayment hold under Subsection (b), the office of inspector
23 general [~~department~~] shall file a request with the State Office of
24 Administrative Hearings for an expedited administrative hearing
25 regarding the hold. The provider must request an expedited hearing
26 under this subsection not later than the 10th day after the date the
27 provider receives notice from the office of inspector general

1 ~~[department]~~ under Subsection (b). The office of inspector general
2 ~~[department]~~ shall discontinue the hold unless the office
3 ~~[department]~~ makes a prima facie showing at the hearing that the
4 evidence relied on by the office of inspector general ~~[department]~~
5 in imposing the hold is relevant, credible, and material to the
6 issue of fraud, waste, abuse, or wilful misrepresentation.

7 (d) The inspector general ~~[department]~~ shall adopt rules
8 that allow a provider subject to a postpayment hold under
9 Subsection (b) to seek an informal resolution of the issues
10 identified by the office of inspector general ~~[department]~~ in the
11 notice provided under that subsection. A provider must seek an
12 informal resolution under this subsection not later than the
13 deadline prescribed by Subsection (c). A provider's decision to
14 seek an informal resolution under this subsection does not extend
15 the time by which the provider must request an expedited
16 administrative hearing under Subsection (c). However, a hearing
17 initiated under Subsection (c) shall be stayed at the office's
18 ~~[department's]~~ request until the informal resolution process is
19 completed.

20 SECTION 25. Section 32.032, Human Resources Code, is
21 amended to read as follows:

22 Sec. 32.032. PREVENTION AND DETECTION OF FRAUD, WASTE, AND
23 ABUSE. The inspector general ~~[department]~~ shall adopt reasonable
24 rules for minimizing the opportunity for fraud, waste, and abuse,
25 for establishing and maintaining methods for detecting and
26 identifying situations in which a question of fraud, waste, or
27 abuse in the program may exist, and for referring cases where fraud,

1 waste, or abuse appears to exist to the appropriate law enforcement
2 agencies for prosecution.

3 SECTION 26. Sections 32.0321(a) through (d), Human
4 Resources Code, are amended to read as follows:

5 (a) The office of inspector general [~~department~~] by rule may
6 recommend to the department and the department by rule may require
7 that each provider of medical assistance in a provider type that has
8 demonstrated significant potential for fraud, waste, or abuse to
9 file with the department a surety bond in a reasonable amount. The
10 office and the department by rule shall each require a provider of
11 medical assistance to file with the department a surety bond in a
12 reasonable amount if the office [~~department~~] identifies a pattern
13 of suspected fraud, waste, or abuse involving criminal conduct
14 relating to the provider's services under the medical assistance
15 program that indicates the need for protection against potential
16 future acts of fraud, waste, or abuse.

17 (b) The bond under Subsection (a) must be payable to the
18 department to compensate the department for damages resulting from
19 or penalties or fines imposed in connection with an act of fraud,
20 waste, or abuse committed by the provider under the medical
21 assistance program.

22 (c) Subject to Subsection (d) or (e), the office of
23 inspector general and the department by rule may require each
24 provider of medical assistance that establishes a resident's trust
25 fund account to post a surety bond to secure the account. The bond
26 must be payable to the department to compensate residents of the
27 bonded provider for trust funds that are lost, stolen, or otherwise

1 unaccounted for if the provider does not repay any deficiency in a
2 resident's trust fund account to the person legally entitled to
3 receive the funds.

4 (d) The office of inspector general and the department may
5 not require the amount of a surety bond posted for a single facility
6 provider under Subsection (c) to exceed the average of the total
7 average monthly balance of all the provider's resident trust fund
8 accounts for the 12-month period preceding the bond issuance or
9 renewal date.

10 SECTION 27. Section 32.0322, Human Resources Code, is
11 amended to read as follows:

12 Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION. (a)
13 The office of inspector general and the department may obtain from
14 any law enforcement or criminal justice agency the criminal history
15 record information that relates to a provider under the medical
16 assistance program or a person applying to enroll as a provider
17 under the medical assistance program.

18 (b) The office of inspector general [~~department~~] by rule
19 shall establish criteria for revoking a provider's enrollment or
20 denying a person's application to enroll as a provider under the
21 medical assistance program based on the results of a criminal
22 history check.

23 SECTION 28. Sections 32.033(d) through (h), Human Resources
24 Code, are amended to read as follows:

25 (d) A separate and distinct cause of action in favor of the
26 state is hereby created, and the office of inspector general
27 [~~department~~] may, without written consent, take direct civil action

1 in any court of competent jurisdiction. A suit brought under this
2 section need not be ancillary to or dependent upon any other action.

3 (e) The ~~[department's]~~ right of recovery of the office of
4 inspector general is limited to the amount of the cost of medical
5 care services paid by the department. Other subrogation rights
6 granted under this section are limited to the cost of the services
7 provided.

8 (f) The inspector general ~~[commissioner]~~ may waive the
9 ~~[department's]~~ right of recovery of the office of inspector general
10 in whole or in part when the inspector general ~~[commissioner]~~ finds
11 that enforcement would tend to defeat the purpose of public
12 assistance.

13 (g) The office of inspector general ~~[department]~~ may
14 designate an agent to collect funds the office ~~[department]~~ has a
15 right to recover from third parties under this section. The
16 department shall use any funds collected to pay costs of
17 administering the medical assistance program.

18 (h) The inspector general ~~[department]~~ may adopt rules for
19 the enforcement of the office's ~~[its]~~ right of recovery.

20 SECTION 29. Sections 32.039(c) through (r) and (u) through
21 (x), Human Resources Code, are amended to read as follows:

22 (c) A person who commits a violation under Subsection (b) is
23 liable to the department for:

24 (1) the amount paid, if any, as a result of the
25 violation and interest on that amount determined at the rate
26 provided by law for legal judgments and accruing from the date on
27 which the payment was made; and

1 (2) payment of an administrative penalty, assessed by
2 the office of inspector general, in ~~of~~ an amount not to exceed
3 twice the amount paid, if any, as a result of the violation, plus an
4 amount:

5 (A) not less than \$5,000 or more than \$15,000 for
6 each violation that results in injury to an elderly person, as
7 defined by Section 48.002(a)(1) [~~48.002(1)~~], a disabled person, as
8 defined by Section 48.002(a)(8)(A) [~~48.002(8)(A)~~], or a person
9 younger than 18 years of age; or

10 (B) not more than \$10,000 for each violation that
11 does not result in injury to a person described by Paragraph (A).

12 (d) Unless the provider submitted information to the
13 department for use in preparing a voucher that the provider knew or
14 should have known was false or failed to correct information that
15 the provider knew or should have known was false when provided an
16 opportunity to do so, this section does not apply to a claim based
17 on the voucher if the department calculated and printed the amount
18 of the claim on the voucher and then submitted the voucher to the
19 provider for the provider's signature. In addition, the provider's
20 signature on the voucher does not constitute fraud. The inspector
21 general [~~department~~] shall adopt rules that establish a grace
22 period during which errors contained in a voucher prepared by the
23 department may be corrected without penalty to the provider.

24 (e) In determining the amount of the penalty to be assessed
25 under Subsection (c)(2), the office of inspector general
26 [~~department~~] shall consider:

27 (1) the seriousness of the violation;

1 (2) whether the person had previously committed a
2 violation; and

3 (3) the amount necessary to deter the person from
4 committing future violations.

5 (f) If after an examination of the facts the office of
6 inspector general [~~department~~] concludes that the person committed
7 a violation, the office [~~department~~] may issue a preliminary report
8 stating the facts on which it based its conclusion, recommending
9 that an administrative penalty under this section be imposed and
10 recommending the amount of the proposed penalty.

11 (g) The office of inspector general [~~department~~] shall give
12 written notice of the report to the person charged with committing
13 the violation. The notice must include a brief summary of the
14 facts, a statement of the amount of the recommended penalty, and a
15 statement of the person's right to an informal review of the alleged
16 violation, the amount of the penalty, or both the alleged violation
17 and the amount of the penalty.

18 (h) Not later than the 10th day after the date on which the
19 person charged with committing the violation receives the notice,
20 the person may either give the office of inspector general
21 [~~department~~] written consent to the report, including the
22 recommended penalty, or make a written request for an informal
23 review by the office [~~department~~].

24 (i) If the person charged with committing the violation
25 consents to the penalty recommended by the office of inspector
26 general [~~department~~] or fails to timely request an informal review,
27 the office [~~department~~] shall assess the penalty. The office

1 ~~[department]~~ shall give the person written notice of its action.
2 The person shall pay the penalty not later than the 30th day after
3 the date on which the person receives the notice.

4 (j) If the person charged with committing the violation
5 requests an informal review as provided by Subsection (h), the
6 office of inspector general ~~[department]~~ shall conduct the review.
7 The office ~~[department]~~ shall give the person written notice of the
8 results of the review.

9 (k) Not later than the 10th day after the date on which the
10 person charged with committing the violation receives the notice
11 prescribed by Subsection (j), the person may make to the office of
12 inspector general ~~[department]~~ a written request for a hearing.
13 The hearing must be conducted in accordance with Chapter 2001,
14 Government Code.

15 (l) If, after informal review, a person who has been ordered
16 to pay a penalty fails to request a formal hearing in a timely
17 manner, the office of inspector general ~~[department]~~ shall assess
18 the penalty. The office ~~[department]~~ shall give the person written
19 notice of its action. The person shall pay the penalty not later
20 than the 30th day after the date on which the person receives the
21 notice.

22 (m) Within 30 days after the date on which the inspector
23 general's ~~[board's]~~ order issued after a hearing under Subsection
24 (k) becomes final as provided by Section 2001.144, Government Code,
25 the person shall:

- 26 (1) pay the amount of the penalty;
27 (2) pay the amount of the penalty and file a petition

1 for judicial review contesting the occurrence of the violation, the
2 amount of the penalty, or both the occurrence of the violation and
3 the amount of the penalty; or

4 (3) without paying the amount of the penalty, file a
5 petition for judicial review contesting the occurrence of the
6 violation, the amount of the penalty, or both the occurrence of the
7 violation and the amount of the penalty.

8 (n) A person who acts under Subsection (m)(3) within the
9 30-day period may:

10 (1) stay enforcement of the penalty by:

11 (A) paying the amount of the penalty to the court
12 for placement in an escrow account; or

13 (B) giving to the court a supersedeas bond that
14 is approved by the court for the amount of the penalty and that is
15 effective until all judicial review of the ~~[department's]~~ order of
16 the inspector general is final; or

17 (2) request the court to stay enforcement of the
18 penalty by:

19 (A) filing with the court a sworn affidavit of
20 the person stating that the person is financially unable to pay the
21 amount of the penalty and is financially unable to give the
22 supersedeas bond; and

23 (B) giving a copy of the affidavit to the office
24 of inspector general ~~[commissioner]~~ by certified mail.

25 (o) If the office of inspector general ~~[commissioner]~~
26 receives a copy of an affidavit under Subsection (n)(2), the office
27 ~~[commissioner]~~ may file with the court, within five days after the

1 date the copy is received, a contest to the affidavit. The court
2 shall hold a hearing on the facts alleged in the affidavit as soon
3 as practicable and shall stay the enforcement of the penalty on
4 finding that the alleged facts are true. The person who files an
5 affidavit has the burden of proving that the person is financially
6 unable to pay the amount of the penalty and to give a supersedeas
7 bond.

8 (p) If the person charged does not pay the amount of the
9 penalty and the enforcement of the penalty is not stayed, the office
10 of inspector general [~~department~~] may forward the matter to the
11 attorney general for enforcement of the penalty and interest as
12 provided by law for legal judgments. An action to enforce a penalty
13 order under this section must be initiated in a court of competent
14 jurisdiction in Travis County or in the county in which the
15 violation was committed.

16 (q) Judicial review of an [~~a department~~] order or review by
17 the office of inspector general under this section assessing a
18 penalty is under the substantial evidence rule. A suit may be
19 initiated by filing a petition with a district court in Travis
20 County, as provided by Subchapter G, Chapter 2001, Government Code.

21 (r) If a penalty is reduced or not assessed, the department
22 shall remit to the person the appropriate amount plus accrued
23 interest if the penalty has been paid or the office of inspector
24 general shall execute a release of the bond if a supersedeas bond
25 has been posted. The accrued interest on amounts remitted by the
26 department under this subsection shall be paid at a rate equal to
27 the rate provided by law for legal judgments and shall be paid for

1 the period beginning on the date the penalty is paid to the
2 department under this section and ending on the date the penalty is
3 remitted.

4 (u) Except as provided by Subsection (w), a person found
5 liable for a violation under Subsection (c) that resulted in injury
6 to an elderly person, as defined by Section 48.002(a)(1), a
7 disabled person, as defined by Section 48.002(a)(8)(A), or a person
8 younger than 18 years of age may not provide or arrange to provide
9 health care services under the medical assistance program for a
10 period of 10 years. The inspector general [~~department~~] by rule may
11 provide for a period of ineligibility longer than 10 years. The
12 period of ineligibility begins on the date on which the
13 determination that the person is liable becomes final.

14 (v) Except as provided by Subsection (w), a person found
15 liable for a violation under Subsection (c) that did not result in
16 injury to an elderly person, as defined by Section 48.002(a)(1), a
17 disabled person, as defined by Section 48.002(a)(8)(A), or a person
18 younger than 18 years of age may not provide or arrange to provide
19 health care services under the medical assistance program for a
20 period of three years. The inspector general [~~department~~] by rule
21 may provide for a period of ineligibility longer than three years.
22 The period of ineligibility begins on the date on which the
23 determination that the person is liable becomes final.

24 (w) The inspector general [~~department~~] by rule may
25 prescribe criteria under which a person described by Subsection (u)
26 or (v) is not prohibited from providing or arranging to provide
27 health care services under the medical assistance program. The

1 criteria may include consideration of:

- 2 (1) the person's knowledge of the violation;
- 3 (2) the likelihood that education provided to the
4 person would be sufficient to prevent future violations;
- 5 (3) the potential impact on availability of services
6 in the community served by the person; and
- 7 (4) any other reasonable factor identified by the
8 inspector general [~~department~~].

9 (x) Subsections (b)(1-b) through (1-f) do not prohibit a
10 person from engaging in:

- 11 (1) generally accepted business practices, as
12 determined by inspector general [~~department~~] rule, including:
- 13 (A) conducting a marketing campaign;
- 14 (B) providing token items of minimal value that
15 advertise the person's trade name; and
- 16 (C) providing complimentary refreshments at an
17 informational meeting promoting the person's goods or services;
- 18 (2) the provision of a value-added service if the
19 person is a managed care organization; or
- 20 (3) other conduct specifically authorized by law,
21 including conduct authorized by federal safe harbor regulations (42
22 C.F.R. Section 1001.952).

23 SECTION 30. Section 32.070(d), Human Resources Code, is
24 amended to read as follows:

25 (d) This section does not apply to a computerized audit
26 conducted using the Medicaid Fraud Detection Audit System or an
27 audit or investigation of fraud and abuse conducted by the Medicaid

1 fraud control unit of the office of the attorney general, the office
2 of the state auditor, the office of [~~the~~] inspector general, or the
3 Office of Inspector General in the United States Department of
4 Health and Human Services.

5 SECTION 31. Section 33.015(e), Human Resources Code, is
6 amended to read as follows:

7 (e) The department shall require a person exempted under
8 this section from making a personal appearance at department
9 offices to provide verification of the person's entitlement to the
10 exemption on initial eligibility certification and on each
11 subsequent periodic eligibility recertification. If the person
12 does not provide verification and the department considers the
13 verification necessary to protect the integrity of the food stamp
14 program, the department shall initiate a fraud referral to the
15 [~~department's~~] office of inspector general established under
16 Section 531.102, Government Code.

17 SECTION 32. Article 2.12, Code of Criminal Procedure, is
18 amended to read as follows:

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

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

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

27 (3) marshals or police officers of an incorporated

1 city, town, or village, and those reserve municipal police officers
2 who hold a permanent peace officer license issued under Chapter
3 1701, Occupations Code;

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

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

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

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

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

15 (9) officers commissioned by the General Services
16 Commission;

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

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

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

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

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

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

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

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

9 (18) officers commissioned by the board of managers of
10 the Dallas County Hospital District, the Tarrant County Hospital
11 District, or the Bexar County Hospital District under Section
12 281.057, Health and Safety Code;

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

15 (20) investigators employed by the Texas Racing
16 Commission;

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

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

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

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

27 (25) an officer employed by the [~~Texas~~] Department of

1 State Health Services under Section 431.2471, Health and Safety
2 Code;

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

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

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

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

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

15 (31) investigators commissioned by the Commission on
16 Law Enforcement Officer Standards and Education under Section
17 1701.160, Occupations Code;

18 (32) commission investigators commissioned by the
19 Texas [~~Commission on~~] Private Security Board under Section
20 1702.061(f), Occupations Code;

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

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

27 (35) officers commissioned by the office of inspector

1 general established under Section 531.102, Government Code.

2 SECTION 33. (a) A rule adopted by the Health and Human
3 Services Commission or a health and human services agency that is
4 necessary to accomplish the functions of the office of inspector
5 general established under Section 531.102, Government Code, as
6 those duties have been expanded by this Act, is also a rule of the
7 office and remains in effect as a rule of the office until modified
8 by the inspector general.

9 (b) A contract or proceeding related to a function
10 transferred to the office of inspector general under this Act is
11 transferred to the office. The transfer does not affect the status
12 of a proceeding or the validity of a contract.

13 SECTION 34. (a) All personnel and assets substantially
14 engaged in the performance of functions transferred to the office
15 of inspector general under this Act shall be promptly transferred
16 along with any equipment, documents, and records currently assigned
17 to or used by that personnel if necessary for the continuing
18 performance of the functions. Inventory of personnel, equipment,
19 documents, records, and assets to be transferred under this section
20 shall be accomplished jointly by the transferring agency and the
21 inspector general of the Health and Human Services Commission
22 before the effective date of this Act. All funds previously
23 appropriated or used, from any source, by the transferring agency
24 in support of the transferred functions, personnel, equipment,
25 documents, records, or assets shall also be contemporaneously
26 transferred to the office.

27 (b) For purposes of this section, "currently assigned"

1 means:

2 (1) all personnel and vacant full-time equivalent
3 positions assigned to or supporting a transferred function at any
4 time during the state fiscal biennium beginning September 1, 2005;
5 and

6 (2) all inventory and equipment assigned to a
7 transferred function or transferring personnel or that was in the
8 possession of transferring personnel on or at any time after
9 October 31, 2006.

10 (c) All state and federal funding, including funding for
11 overhead costs, support costs, and lease or colocation lease costs,
12 for the functions to be transferred to the office of inspector
13 general created under this Act shall be reallocated to that office.

14 (d) For purposes of federal single state agency funding
15 requirements, any federal funds that may not be appropriated
16 directly to the office of inspector general shall be transferred
17 from the single state agency receiving the funds to the office of
18 inspector general if the funds are intended for a function
19 performed by the office.

20 SECTION 35. This Act takes effect September 1, 2007.