

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3381

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 2006

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3381, with committee amendments.

This bill, as amended, is designated the "Medicaid Program Integrity and Protection Act" and establishes the Office of Medicaid Inspector General in the Executive Branch of the State Government. For the purposes of complying with Article V, Section IV, paragraph 1 of the New Jersey Constitution, the office is allocated within the Department of Human Services (DHS); however, notwithstanding the allocation, the office is to be independent of any supervision or control by DHS, or a division, office or officer thereof, in the performance of its duties.

The bill provides specifically as follows:

- The office is to undertake and be responsible for the duties of DHS as the State office for Medicaid program integrity, including, but not limited to: the detection, prevention, and investigation of fraud and abuse; the recovery of improperly expended Medicaid funds; enforcement; audit; quality review; compliance; referral of criminal prosecutions; and oversight of information technology relating to Medicaid fraud and abuse.
- The office is to be administered by the Medicaid Inspector General, who is to be an attorney, licensed to practice law in a jurisdiction in the United States, and to be selected without regard to political affiliation and on the basis of capacity for effectively carrying out the duties of the office.

-- No former or current executive or manager of any program or agency subject to oversight by the office may be appointed Medicaid Inspector General within two years of that individual's period of service with such program or agency.

-- The Medicaid Inspector General is to be appointed by the Governor with the advice and consent of the Senate and is to serve for a term of five years and until a successor is appointed and assumes the position.

-- The Medicaid Inspector General is to appoint a First Assistant Medicaid Inspector General to assist in the performance of the duties of the office.

-- The Medicaid Inspector General is to function independently within DHS with respect to the operations of the office, including the performance of investigations and issuance of findings and recommendations.

- The Medicaid Inspector General is generally authorized to:

- conduct and supervise all State government activities relating to Medicaid integrity, fraud, and abuse except activities of the Medicaid Fraud Control Unit in the Department of Law and Public Safety;

- call upon any department, office, division, or agency of State government to provide such information, resources, or other assistance as the Medicaid Inspector General deems necessary to discharge the duties and functions and to fulfill the responsibilities of the Medicaid Inspector General;

- coordinate activities to prevent, detect, and investigate Medicaid fraud and abuse among the following: DHS; the Departments of Health and Senior Services, Education, and Treasury; the Office of the Attorney General and the special investigative unit maintained by each health insurer providing a Medicaid managed care plan within the State; and

- recommend and implement policies relating to Medicaid integrity, fraud, and abuse, and monitor the implementation of any recommendations made by the office to other agencies or entities responsible for the administration of Medicaid.

- The Medicaid Inspector General is accorded specific powers and responsibilities that are enumerated under the bill for the purposes of:

- ensuring compliance with applicable Medicaid standards and requirements, identifying and reducing fraud and abuse, and improving the efficiency and effectiveness of Medicaid;

- investigating allegations of Medicaid fraud and abuse and enforcing applicable laws, rules, regulations, and standards; and

- recovering improperly expended Medicaid funds, imposing administrative sanctions, damages or penalties, negotiating settlements and developing an effective third-party liability program.

- In addition to the authority otherwise provided by the bill, the Medicaid Inspector General is authorized to request, and is entitled to receive, such information, assistance, and cooperation from any federal, State, or local government department, board, bureau, commission, or other agency or unit thereof, as may be necessary to carry out the duties and responsibilities of the Medicaid Inspector General.

- The Medicaid audit, program integrity, fraud and abuse prevention and recovery functions, all officers and employees that the Medicaid Inspector General deems qualified and substantially engaged therein, and any documents and records that the Medicaid Inspector General deems necessary and related to the transfer of such functions and personnel, are to be transferred to the Office of the

Medicaid Inspector General from the Medicaid Office of Program Integrity Unit and the Third Party Liability Unit in the Division of Medical Assistance and Health Services, the Division of Disability Services, the Division of Developmental Disabilities, the Division of Mental Health Services, the Division of Youth and Family Services, the Division of Child Behavioral Health Services, the Department of Health and Senior Services and the Department of the Treasury.

- The Medicaid Inspector General is to have general managerial control over the office and establish the organizational structure of the office as he deems appropriate to carry out the responsibilities and functions of the office.
- The Medicaid Inspector General is to:
 - report the findings of audits, investigations, and reviews performed by the office, and issue recommendations for corrective or remedial action, to the Governor, the President of the Senate and the Speaker of the General Assembly, and the entity at issue; and
 - provide periodic reports to the Governor and the Legislature, which are to be available to the public.
- The bill establishes a “Medicaid Fraud Control Fund” as a nonlapsing, revolving fund in the Department of the Treasury and directs the State Treasurer to deposit 25% of the state share of monies recovered pursuant to the bill into the fund, which are to be utilized by the Medicaid Inspector General and the Medicaid Fraud Unit for the exclusive purpose of investigating and prosecuting Medicaid fraud claims.
- The bill appropriates an amount not to exceed up to \$3 million from the General Fund to the Office of the Medicaid Inspector General, after the filing of a written transition plan for the office, to effectuate the purposes of the bill and provides that, in each succeeding fiscal year, at least \$3 million is to be appropriated from the General Fund to the office for that purpose.
- Finally, the bill amends N.J.S.A.2C:21-22.1 to expand the definition of “runner” in that statute to include “a person who, for a pecuniary benefit, procures or attempts to procure a client, patient or customer at the direction of, request of or in cooperation with a provider whose purpose is to seek to obtain benefits under . . . or assert a claim against a State or federal health care benefits program or prescription drug assistance program.” The statute makes it a crime of the third degree (punishable by imprisonment for a term of three to five years or a fine of up to \$15,000, or both) for a person to knowingly act as a runner or use, solicit, direct, hire, or employ another to act as a runner.

As amended and reported, this bill is identical to Senate Bill No. 1852 (1R), as also amended and reported by the committee.

FISCAL IMPACT:

The bill makes a contingent appropriation from the General Fund of an amount not to exceed \$3 million subject to the approval of the Director of the Division of Budget and Accounting after the filing of a written transition and operation plan for the office.

COMMITTEE AMENDMENTS:

The amendments delete language that would have interfered with the designation of the Department of Human Services as the “single state agency” for Medicaid administration, which is required by federal law.

The amendments delete certain information technology oversight powers of the Medicaid Inspector General, to allow the department to continue information technology contract administration.

The amendments delete language that might otherwise have interfered with the authority of the Office of the Attorney General.

The amendments change the effective date provisions of the bill, in the interests of allowing an orderly transition to the Office of Medicaid Inspector General, by delaying the implementation of the administrative provisions of the bill until the later of: 1) the approval of the Medicaid Inspector General’s transition and operation plan, or 2) June 30, 2007.