

SECOND REGULAR SESSION

SENATE BILL NO. 1042

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5297S.011

AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to the office of the MO HealthNet inspector general.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.911, to read as follows:

191.911. 1. There is hereby established the "Office of the MO HealthNet Inspector General" in the department of social services. The office shall be a type III agency within the department of social services under the Omnibus State Reorganization Act of 1974. The staff and duties under the MO HealthNet participant fraud unit within the legal services division of the department shall be transferred to the office. The office shall be devoted to MO HealthNet program integrity through means including, but not limited to:

(1) The detection, prevention, and investigation of fraud and abuse;

(2) Recovery of improperly expended MO HealthNet funds;

(3) Enforcement;

(4) Audit;

(5) Quality review;

(6) Compliance;

(7) Referral of criminal prosecutions;

(8) Investigation; and

(9) Oversight of information technology relating to MO HealthNet fraud and abuse.

2. The office shall be administered by the MO HealthNet inspector general, who shall be an attorney, licensed to practice law in

22 a jurisdiction in the United States, and shall be selected without regard
23 to political affiliation and on the basis of capacity for effectively
24 carrying out the duties of the office. The MO HealthNet inspector
25 general shall possess demonstrated knowledge, skills, abilities, and
26 experience in conducting audits and investigations, and shall be
27 familiar with the programs subject to oversight by the office. No
28 former or current executive or manager of any program or agency
29 subject to oversight by the office may be appointed MO HealthNet
30 inspector general within two years of that individual's period of service
31 with such program or agency.

32 3. The MO HealthNet inspector general shall:

33 (1) Be appointed by the governor with the advice and consent of
34 the senate and shall serve for a term of five years and until a successor
35 is appointed and assumes the position;

36 (2) Devote full time to the duties and responsibilities of the
37 office;

38 (3) Appoint a first assistant MO HealthNet inspector general to
39 assist in the performance of the duties of the office. The first assistant
40 MO HealthNet inspector general shall have the same qualifications as
41 are set forth in subsection 2 of this section.

42 4. During the term set forth in subdivision (1) of subsection 3 of
43 this section, the MO HealthNet inspector general may be removed by
44 the governor only for cause upon notice and opportunity to be heard.
45 A vacancy in the position of MO HealthNet inspector general due to a
46 cause other than the expiration of the term shall be filled for the
47 unexpired term only in the same manner as the original
48 appointment. The MO HealthNet inspector general shall function
49 independently within the office of the inspector general with respect
50 to the operations of the office, including the performance of
51 investigations and issuance of findings and recommendations.

52 5. The MO HealthNet inspector general shall have the following
53 general functions, duties, powers, and responsibilities:

54 (1) To appoint such deputies, directors, assistants, and other
55 officers and employees as may be needed for the office to meet its
56 responsibilities, and to prescribe their duties and fix their
57 compensation in accordance with state law and within the amounts
58 appropriated therefor;

59 (2) To conduct and supervise all state government activities,
60 except those of the MO HealthNet fraud control unit in the attorney
61 general's office, relating to MO HealthNet integrity, fraud, and abuse;

62 (3) To call upon any department, office, division, or agency of
63 state government to provide such information, resources, or other
64 assistance as the MO HealthNet inspector general deems necessary to
65 discharge the duties and functions and to fulfill the responsibilities of
66 the MO HealthNet inspector general under this section. Each
67 department, office, division, and agency of this state shall cooperate
68 with the MO HealthNet inspector general and furnish the office with
69 the assistance necessary to accomplish the purposes of this section;

70 (4) To coordinate activities to prevent, detect, and investigate
71 MO HealthNet fraud and abuse among the following: the department
72 of health and senior services, mental health, and the office of the
73 attorney general; and any special investigative unit maintained by each
74 health insurer providing a MO HealthNet managed care plan within the
75 state;

76 (5) To apply for and receive federal grants and moneys with all
77 necessary assistance as the MO HealthNet inspector general shall
78 require from the department;

79 (6) To enter into any applicable federal pilot programs and
80 demonstration projects and coordinate with the department in order
81 for the department to apply as requested by the MO HealthNet
82 inspector general, for necessary federal waivers;

83 (7) To recommend and implement policies relating to MO
84 HealthNet integrity, fraud, and abuse, and monitor the implementation
85 of any recommendations made by the office to other agencies or
86 entities responsible for the administration of MO HealthNet;

87 (8) To perform any other functions that are necessary or
88 appropriate in furtherance of the mission of the office; and

89 (9) To direct all public or private MO HealthNet service
90 providers or recipients to cooperate with the office and provide such
91 information or assistance as shall be reasonably required by the office.

92 6. As it relates to ensuring compliance with applicable MO
93 HealthNet standards and requirements, identifying and reducing fraud
94 and abuse, and improving the efficiency and effectiveness of MO
95 HealthNet, the functions, duties, powers, and responsibilities of the MO

96 HealthNet inspector general shall include, but not be limited to, the
97 following:

98 (1) To establish, in consultation with the department and the
99 attorney general, guidelines under which the withholding of payments
100 or exclusion from MO HealthNet may be imposed on a provider or shall
101 automatically be imposed on a provider;

102 (2) To review the utilization of MO HealthNet services to ensure
103 that MO HealthNet funds, regardless of which agency administers the
104 service, are appropriately spent to improve the health of MO HealthNet
105 recipients;

106 (3) To review and audit contracts, cost reports, claims, bills, and
107 all other expenditures of MO HealthNet funds to determine compliance
108 with applicable laws, regulations, guidelines, and standards, and
109 enhance program integrity;

110 (4) To consult with the department to optimize the Medicaid
111 management information system in furtherance of the mission of the
112 office. The department shall consult with the Medicaid inspector
113 general on matters that concern the operation, upgrade, and
114 implementation of the MO HealthNet management information system;

115 (5) To coordinate the implementation of information technology
116 relating to MO HealthNet integrity, fraud, and abuse; and

117 (6) To conduct educational programs for MO HealthNet
118 providers, vendors, contractors, and recipients designed to limit MO
119 HealthNet fraud and abuse.

120 7. As it relates to investigating allegations of MO HealthNet
121 fraud and abuse and enforcing applicable laws, rules, regulations, and
122 standards, the functions, duties, powers, and responsibilities of the MO
123 HealthNet inspector general shall include, but not be limited to, the
124 following:

125 (1) To conduct investigations concerning any acts of misconduct
126 within MO HealthNet;

127 (2) To refer information and evidence to regulatory agencies and
128 professional and occupational licensing boards;

129 (3) To coordinate the investigations of the office with the
130 attorney general, law enforcement authorities, and any prosecutor of
131 competent jurisdiction, and endeavor to develop these investigations
132 in a manner that expedites and facilitates criminal prosecutions and

133 the recovery of improperly expended MO HealthNet funds, including:

134 (a) Keeping detailed records for cases processed by the attorney
135 general and prosecuting attorney. The records shall include:
136 information on the total number of cases processed and, for each case,
137 the agency and division to which the case is referred for investigation;
138 the date on which the case is referred; and the nature of the suspected
139 fraud, waste, or abuse; and

140 (b) Receiving notice from the attorney general of each case that
141 the attorney general declines to prosecute or prosecutes unsuccessfully;

142 (4) To make information and evidence relating to suspected
143 criminal acts which the MO HealthNet inspector general may obtain in
144 carrying out his or her duties available to the MO HealthNet fraud
145 control unit pursuant to the requirements of federal law, as well as to
146 other law enforcement officials when appropriate, and consult with the
147 attorney general and prosecuting attorney in order to coordinate
148 criminal investigations and prosecutions;

149 (5) To refer complaints alleging criminal conduct to the attorney
150 general or other appropriate prosecutorial authority. If the attorney
151 general or other appropriate prosecutorial authority decides not to
152 investigate or prosecute the matter, the attorney general or other
153 appropriate prosecutorial authority shall promptly notify the MO
154 HealthNet inspector general. The attorney general or the prosecutorial
155 authority shall inform the MO HealthNet inspector general as to
156 whether an investigation is ongoing with regard to any matter so
157 referred. The MO HealthNet inspector general shall preserve the
158 confidentiality of the existence of any ongoing criminal investigation.

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