

TENNESSEE CODE ANNOTATED

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Title 71 Welfare

Chapter 5 Programs and Services for Poor Persons

Part 25 -TennCare Fraud and Abuse

Tenn. Code Ann. § 71-5-2505 (2007)

71-5-2505. Authority. [Amended effective June 30, 2010. See the Compiler's Notes.]

The office of inspector general shall have the authority to:

(1) Investigate civil and criminal fraud and abuse of the TennCare program, or any other violations of state criminal law related to the operation of TennCare;

(2) Cooperate with the MFCU, and where a preliminary investigation of fraud and abuse by a provider establishes a sufficient basis to warrant a full investigation, refer such matters to the MFCU;

(3) Refer matters to the appropriate enforcement authority for criminal prosecution;

(4) Refer matters to the appropriate enforcement authorities for civil proceedings, and assist in the recovery of funds which have been inappropriately paid by the TennCare program, including, but not limited to, referral to the attorney general for civil recovery;

(5) Cooperate with the appropriate federal departments in any reasonable manner as may be necessary to qualify for federal aid in connection with TennCare;

(6) Cooperate with the federal government and other state governments to investigate TennCare and medicaid fraud and abuse;

(7) Cooperate with other state agencies to investigate TennCare and medicaid fraud and abuse;

(8) Within sixty (60) days after the close of each fiscal year, prepare and print a summary report, which shall be submitted to the governor, members of the general assembly, the TennCare advisory commission, the TennCare oversight committee of the general assembly, and the commissioner. This report shall include a summary of all activities of the office of inspector general during that fiscal year;

(9) Furnish information to acquaint the public with the fraud and abuse laws pertaining to TennCare;

(10) Contract with necessary entities to carry out the required duties of this part. All such contracts shall be procured in accordance with the requirements of title 12, chapter 4, part 1;

(11) Exercise any additional powers necessary to carry out the purposes and provisions of this part; and

[Effective until June 30, 2010.]

(12) Investigate civil and criminal fraud and abuse, or any other violations of state criminal law, related to the operation of any program created pursuant to the Access Tennessee Act of 2006, compiled in title 4, chapter 40, part 4; the Cover Tennessee Act of 2006, compiled in title 56, chapter 7, part 30; and the CoverKids Act of 2006, compiled in chapter 3, part 11 of this title.

HISTORY: [Acts 2004, ch. 673, § 20; 2005, ch. 474, § 8; 2006, ch. 867, § 8.]

NOTES:**Compiler's Notes.**

Acts 2004, ch. 673, § 29 provided that to effectuate the provisions of the act, the commissioner of finance and administration shall have the authority to promulgate any necessary rules and regulations not otherwise provided for in this act. All rules and regulations provided for in this act are authorized to be promulgated as public necessity rules pur-

suant to § 4-5-209. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Acts 2006, ch. 867, § 14(a) provided that the amendment by the act is effective until June 30, 2010.

Amendments.

The 2005 amendment deleted "TennCare" preceding "inspector general" at the beginning of the introductory paragraph and in (8).

The 2006 amendment added (12).

Effective Dates.

Acts 2004, ch. 673, § 31. May 17, 2004.

Acts 2005, ch. 474, § 31. June 18, 2005.

Acts 2006, ch. 867, § 14(a). June 6, 2006, effective until June 30, 2010.

71-5-2509. Powers when investigating fraud or abuse - Judicial enforcement.

(a) (1) The office of inspector general, when conducting any investigation relating to TennCare fraud or abuse, shall have the power to issue subpoenas, and compel the attendance of witnesses, the examination of such witnesses under oath, and the production of books, accounts, papers, records, and documents relating to such investigation.

(2) In the case of a failure of any person, firm, or corporation so subpoenaed to attend or to produce the specified records, and after reasonable notice to such person, firm, or corporation, the office of inspector general may seek judicial enforcement of the subpoena by filing, through the attorney general, a petition with the circuit or chancery court of Davidson County or of the judicial district in which such person, firm, or corporation resides. Such petition shall incorporate or be accompanied by a certification regarding the notice given and the failure of such person, firm or corporation to attend or produce the records.

(3) Upon the filing of such a petition in proper form, the court shall order the person, firm, or corporation named in the petition to appear and show cause why they should not comply with the subpoena or be held in contempt for failure to comply. The court shall have authority to employ all judicial power as provided by law to compel compliance with the subpoena, including those powers granted in §§ 29-9-103 - 29-9-106. The court shall be authorized to impose costs and sanctions against any such person, firm, or corporation, in the same manner and on the same bases as may be imposed for failure to comply with judicially issued subpoenas under the Tennessee Rules of Civil Procedure.

(4) The court may order the person, firm, or corporation to comply, and shall have the authority to punish each day of failure to comply with such order as a separate contempt of court.

(5) The subpoena enforcement remedies set forth in this subsection (a) shall be cumulative, and not exclusive, of any other remedies provided by law for the enforcement of such subpoenas.

(b) The office of inspector general shall have the power to compel the production of current and former employment records during an investigation. Employment records include, but are not limited to, employment details, wages, and insurance information of TennCare applicants and enrollees. Employment records shall be open to inspection and be subject to being copied by an office of inspector general representative at any reasonable time and as often as may be necessary. The office of inspector general shall also have the right to compare information reported to TennCare by applicants or enrollees with data maintained by the credit bureaus.

(c) The complete patient record of an enrollee or recipient generated during the TennCare enrollment period shall be made available to the office of inspector general upon request. This includes any and all services, goods and pharmaceuticals dispensed regardless of payment source. Access to these records under this section may occur during and after

enrollment in the TennCare program. Records accessed during an investigation shall be protected in accordance with state and federal privacy laws.

HISTORY: [Acts 2004, ch. 673, § 20; 2005, ch. 474, § 8.]

NOTES:

Compiler's Notes.

Acts 2004, ch. 673, § 29 provided that to effectuate the provisions of the act, the commissioner of finance and administration shall have the authority to promulgate any necessary rules and regulations not otherwise provided for in this act. All rules and regulations provided for in this act are authorized to be promulgated as public necessity rules pursuant to § 4-5-209. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Amendments.

The 2005 amendment deleted "TennCare" preceding "Inspector General" throughout this Code section.

Effective Dates.

Acts 2004, ch. 673, § 31. May 17, 2004.

Acts 2005, ch. 474, § 31. June 18, 2005.