

Proposed Rules
of
Department of Finance and Administration
Office of Inspector General

Chapter 0620-4-1
Incentive Program for the Office of Inspector General
(Rewards information relating to TennCare Fraud)

Presented herein are proposed rules of the Office of Inspector General, a division of the Department of Finance and Administration, submitted pursuant to Tenn. Code Ann. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Finance and Administration to promulgate this rule without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the Department of Finance and Administration, Office of Inspector General, P.O. Box 282368, Nashville, TN 37228 and in the Department of State, 8th Floor, Tennessee Tower, William Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed rules, contact: Swigah Mwakipake, Office of Inspector General, Department of Finance and Administration, P.O. Box 282368, Nashville, TN 37228, (615)-687-7200.

The Text of the proposed rules is as follows:

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0620-4-1-.01 Definitions

- (1) “Commissioner” means the commissioner of Finance and Administration;
- (2) “Enrollee” shall mean any person eligible for and enrolled in the TennCare program;
- (3) “Fraud” means an intentional deception or misrepresentation made by a person including, but not limited to, a vendor, recipient, provider, or enrollee, with the knowledge that the deception or misrepresentation could result in some unauthorized benefit or payment to oneself or some other person. It includes any act that constitutes fraud under applicable federal or state law including, but not limited to, the Tennessee Medicaid False Claims Act, compiled under Tenn. Code Ann. §§ 71-5-181 – 71-5-186;
- (4) “Inspector General” means the person who directs the Office of Inspector General, pursuant to Tenn. Code Ann. § 71-5-2502;
- (5) “Provider” shall mean an institution, facility, agency, person, corporation, partnership, unincorporated organization, nonprofit organization, or any person or entity directly or indirectly providing benefits, goods or services to a TennCare enrollee. Provider shall also mean a provider’s agent, contractor or subcontractor, such as a billing agent;
- (6) “TennCare” means the program administered by the Single State agency as designated by the State and CMS pursuant to Title XIX of the Social Security Act and section 1115 Research and Demonstration waiver granted to the State of Tennessee and any successor programs;
- (7) “Vendor” means any person, institution, agency, other entity or business concern providing services or goods authorized under title 71, chapter 5, part 1, and included, but is not limited to, any health maintenance organization, managed care organization, managed care contractor, administrative services

organization, pharmacy benefit manager, prepaid limited health service organization, contractor or subcontractor;

Authority: T.C.A. §§ 71-5-2503 through 71-5-2505, 71-5-2507 through 71-5-2509, 71-5-2512 through 71-5-2515 and 71-5-181 through 71-5-186.

0620-4-1-.02 Eligibility

- (1) General rule. The Office of the Inspector General shall pay a monetary reward for information that leads to the arrest and conviction of any person or entity that has engaged in TennCare fraud. The determination of whether any person or entity meets the criteria for an award, and the amount of that award, is at the sole discretion of the Office of Inspector General (OIG). The OIG shall pay a reward only if a reward is not otherwise provided for by law. When the OIG applies the criteria specified under these rules to determine the eligibility and the amount of the reward, the OIG shall notify the beneficiary of the reward as specified below in 0620-4-1-.03.
- (2) A person or entity desiring consideration for a reward shall contact the Office of Inspector General through the TennCare Fraud and Abuse Hotline at 1-800-433-3982. Only information submitted by telephone is eligible for a reward.
- (3) Eligibility requirements. In order for a reporting person or entity to be eligible to receive a reward, the person or entity must:
 - (a) Provide the following identifying information:
 1. Full name
 2. Postal address
 3. Telephone number
 4. Email address if available;
 - (b) Provide information relating to the activities of a specified person or entity who at the time the information is provided is not already the subject of a review or investigation by the OIG or any of its contractors; the Tennessee Department of Human Services (DHS), the TennCare Bureau, the Tennessee Bureau of Investigation, the Office of the Inspector General for the U.S. Department of Health and Human Services or their contractors, the U.S. Department of Justice, or the Federal Bureau of Investigation;
 - (c) State with specificity the time frame, and how the acts or omissions of the person or entity defrauded the TennCare program; and
 - (d) Provide information that results in a criminal conviction.

- (4) Notwithstanding any other provisions of these rules, the following persons are excluded from eligibility to receive a reward:
 - (a) Any person who is, or was at the time of acquiring the information or making the report, an officer or an employee of any of the agencies or entities listed above in (3)(b) at the time he or she came into possession of, or divulged information leading to a conviction;
 - (b) Any person who is, or was at the time of acquiring the information or making the report, an immediate family member of an officer or an employee of any of the agencies or entities listed above in (3)(b) at the time he or she came into possession of, or divulged information leading to a conviction;
 - (c) Any other Federal, State, County, or Municipal employee, contractor, or grantee, if the information submitted came to their knowledge in the normal course of their official duties;
 - (d) A person or entity that illegally obtained the information submitted; or,
 - (e) A person or entity that participated in, benefited from, or acquiesced in the criminal conduct which resulted in a criminal conviction.

Authority: T.C.A. §§ 4-5-202; 71-5-2504 and 71-5-2512.

0620-4-1-.03 Payment of the Reward

- (1) The OIG shall post TennCare fraud convictions on the OIG website. This information will ordinarily be posted on the OIG website within sixty (60) days of the date of entry of the judgment of conviction.
 - (a) Any person who reported the information leading to a conviction for TennCare fraud shall have sixty (60) days from the date of the initial posting on the website to contact OIG and claim his/her reward. After the expiration of sixty (60) days the right to claim the reward will expire. A person(s) claiming the reward must be able to provide and verify his/her identity in order to obtain the reward monies.
 - (b) If a person who reported the information leading to a conviction for TennCare fraud has become incapacitated or is deceased, any duly appointed executor, administrator, conservator, receiver, trustee, or legal guardian may claim the reward on behalf of the informant or the informant's estate. The representative must provide documentation sufficient in the judgment of the Office of Inspector General to establish

the legal basis of the representative's authority. In order to claim the reward the representative must comply with all the requirements as provided under these rules

(2) Amount and payment of a reward

(a) The payment schedule for the incentive program for persons otherwise qualified to receive a reward is as follows:

1. A person who provides information that leads to a class B felony conviction of TennCare fraud, and an offer of restitution of at least five thousand (\$5000) dollars, will receive a two hundred fifty (\$250) cash reward.
2. A person who provides information that leads to a class C felony conviction of TennCare fraud, and an order of restitution of at least one thousand (\$1000) dollars will receive a two hundred dollar (\$200) cash reward.
3. A person who provides information that leads to a class D felony conviction of TennCare fraud, and an order of restitution of at least one thousand (\$1000) dollars will receive a one hundred and fifty dollar (\$150) cash reward.
4. A person who provides information that leads to a class E felony conviction of TennCare fraud, and an order of restitution of at least one thousand dollars (\$ 1,000) will receive a one hundred dollar (\$ 100) cash reward.
5. A person who provides information that leads to an arrest and a class E felony conviction of TennCare fraud or any other offense related to the operation of the TennCare program will receive a fifty dollar (\$50) cash reward.
6. A person who provides information that leads to an arrest and judicial or pre-trial diversion for TennCare fraud or any other offense related to the operation of the TennCare program will receive a fifty dollar (\$50) cash reward.

(b) Where a person provides the OIG with information that results in multiple TennCare fraud convictions, the OIG shall give a single reward for that information regardless of the number of persons who are convicted or the number of convictions obtained against one person as a result of that information. The single reward shall be in the amount corresponding to the higher conviction.

- (c) No OIG employee has the authority to make any offer, or promise, or otherwise bind the OIG with respect to the payment or the amount of any reward under this section. Any such purported promise will be null and void.

- (3) All records concerning information received by the OIG from citizens regarding suspected crime, and concerning the reward program, are confidential investigative records of the OIG. The OIG shall not reveal to any person, entity, or organization, identifying information relating to citizens who provided the OIG with information under this section except as required by law.

- (4) If, after a reward is accepted, the OIG finds that the person who claimed the reward was ineligible to receive the reward, the OIG shall not be liable for such reward, and may seek to recover all monies received by means of remedies available at law and equity.

Authority: T.C.A. §§ 4-5-202, 10-7-504(a)(2), 71-5-2504 and 71-5-2512.

The proposed rules set out herein were properly filed in the Department of State on the 26th day of July, 2006, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of November, 2006.