

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 708

(Senators Lam and Hettleman)

Finance

Health and Government Operations

Maryland Department of Health - Office of the Inspector General

This bill establishes a compliance officer within the Maryland Office of the Inspector General (OIG) for Health to ensure that units and employees of the Maryland Department of Health (MDH) comply with (1) best practices in health care, public health, and government administration and (2) laws, regulations, and MDH policies. Within 30 business days after receiving a complaint or allegation, the Inspector General (IG), the compliance officer, or a designated assistant IG must respond to the individual who filed the complaint or allegation with (1) a preliminary indication of whether the Maryland OIG for Health is able to investigate the complaint or allegation and (2) if not, the reason for not being able to do so (unless doing so would have a negative impact on or jeopardize a specified investigation) and the contact information for the Office of Legislative Audits (OLA) Fraud Hotline.

Fiscal Summary

State Effect: General fund expenditures for the Maryland OIG for Health increase by *at least* \$78,600 in FY 2023 to create the compliance officer position, as discussed below. Future years reflect annualization and ongoing expenses. OLA may receive additional tips under the bill, which may affect operations but does not likely affect expenditures, particularly as all referrals are not necessarily investigated. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	78,600	93,800	96,400	99,000	101,600
Net Effect	(\$78,600)	(\$93,800)	(\$96,400)	(\$99,000)	(\$101,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The compliance officer must be designated by the IG and must be professionally qualified through experience or education in at least one of the following areas: (1) administrative management; (2) health care compliance standards; or (3) public health.

The bill authorizes the IG to investigate behavior in MDH that threatens public safety or demonstrates negligence, incompetence, or malfeasance.

Current Law: Chapter 70 of 2006 codified the OIG within MDH and authorized the IG to investigate fraud, waste, and abuse of departmental funds. OIG must cooperate and coordinate investigative efforts with the Medicaid Fraud Control Unit, departmental programs, and other State and federal agencies to ensure a provider is not subject to duplicative audits. The IG may take necessary steps to recover (1) mistaken claims paid or payments obtained in error or fraudulent claims paid to or obtained by a provider and (2) the cost of benefits mistakenly paid or obtained in error or fraudulently paid to or obtained by a recipient.

Chapter 136 of 2016 authorized the IG to subpoena any person or evidence, administer oaths, and take depositions and other testimony as part of an investigation of fraud, waste, or abuse of departmental funds. The IG may use extrapolation during an audit to recover an overpayment from a provider. The IG may impose a civil money remedy against a provider for a violation of State or federal law governing the conditions of payment for any service or item for which the provider submitted a claim and received payment.

Chapters 325 and 326 of 2021 establish the Maryland OIG for Health as an independent unit of the State effective July 1, 2022.

State Expenditures: MDH advises that the current OIG receives approximately 40 to 50 complaints and allegations each month, and that additional staff beyond one compliance officer may be required to respond within 30 days, as required under the bill. Additionally, existing staff are fully subscribed and cannot be designated to respond.

General fund expenditures for the Maryland OIG for Health increase by *at least* \$78,608 in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate reflects the cost of hiring one compliance officer to ensure that units and employees of MDH comply with best practices, laws, regulations, and department policies. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$71,265
Operating Expenses	<u>7,343</u>
Total FY 2023 State Expenditures	\$78,608

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

To the extent that additional staff are required to ensure the office responds to all complaints or allegations within 30 days, expenditures increase by approximately \$95,000 each fiscal year to hire an additional staff position.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of General Services; Maryland Department of Health; Board of Public Works; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2022
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Analysis by: Amberly Holcomb

Direct Inquiries to:
 (410) 946-5510
 (301) 970-5510