

Chapter 140

(House Bill 1002)

AN ACT concerning

~~Maryland Department of Health~~ **Office of the Attorney General – Investigative Authority – Health Care Fraud**

FOR the purpose of authorizing the ~~Office of the~~ Attorney General, a Deputy Attorney General, or an Assistant Attorney General to issue a subpoena persons or evidence, administer oaths, and take depositions and other testimony to investigate fraud, waste, abuse of Maryland Department of Health funds, or certain behavior in the Department; authorizing the Office to petition a court to compel compliance with a certain order or subpoena or testimony or the production of evidence under certain circumstances to a person to produce certain materials, answer written interrogatories, and give certain testimony in furtherance of a certain health care fraud investigation; authorizing the Attorney General to report a failure to obey the subpoena to the circuit court with jurisdiction over the matter; and generally relating to the investigative authority of the Office of the Attorney General.

~~BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–503
Annotated Code of Maryland
(2023 Replacement Volume)~~

BY adding to
Article – State Government
Section 6–901 to be under the new subtitle “Subtitle 9. Subpoenas”
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

~~Article – Health – General~~

~~2–503.~~

~~(a) The Inspector General:~~

~~(1) May investigate fraud, waste, abuse of departmental funds, and behavior in the Department that threatens public safety or demonstrates negligence, incompetence, or malfeasance;~~

~~(2) Shall cooperate with and coordinate investigative efforts with the Medicaid Fraud [Control] AND VULNERABLE VICTIMS Unit and where a preliminary investigation establishes a sufficient basis to warrant referral, shall refer such matters to the Medicaid Fraud [Control] AND VULNERABLE VICTIMS Unit; and~~

~~(3) Shall cooperate with and coordinate investigative efforts with departmental programs and other State and federal agencies to ensure a provider is not subject to duplicative audits.~~

~~(b) (1) The Inspector General [or], a designated Assistant Inspector General, OR THE OFFICE OF THE ATTORNEY GENERAL may subpoena any person or evidence, administer oaths, and take depositions and other testimony for the purpose of investigating fraud, waste, abuse of departmental funds, or behavior in the Department that threatens public safety or demonstrates negligence, incompetence, or malfeasance.~~

~~(2) If a person fails to comply with a lawful order or subpoena issued under this subsection, on petition of the Inspector General [or], a designated Assistant Inspector General, OR THE OFFICE OF THE ATTORNEY GENERAL, a court of competent jurisdiction may compel:~~

~~(i) Compliance with the order or subpoena; or~~

~~(ii) Testimony or the production of evidence.~~

~~(e) Within 30 business days after receiving a complaint or allegation, the Inspector General, the Compliance Officer, or a designated Assistant Inspector General shall respond to the individual who filed the complaint or allegation with:~~

~~(1) A preliminary indication of whether the Office of the Inspector General is able to investigate the complaint or allegation; and~~

~~(2) If the Office of the Inspector General is unable to investigate the complaint or allegation:~~

~~(i) The reason for not being able to investigate, unless providing the reason would have a negative impact on or jeopardize an investigation being conducted by the Office of the Inspector General, a managed care organization, another unit of government, or law enforcement; and~~

~~(ii) The contact information for the Office of Legislative Audits Fraud Hotline.~~

Article – State Government

SUBTITLE 9. SUBPOENAS.

6-901.

(A) THIS SECTION MAY NOT BE CONSTRUED TO ALLOW THE CONTRAVENTION, DENIAL, OR ABROGATION OF A PRIVILEGE OR RIGHT RECOGNIZED BY LAW.

(B) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING HEALTH CARE FRAUD INVESTIGATION UNDER THE MARYLAND FALSE HEALTH CLAIMS ACT OR OTHER CIVIL AUTHORITY, THE ATTORNEY GENERAL, A DEPUTY ATTORNEY GENERAL, OR AN ASSISTANT ATTORNEY GENERAL DESIGNATED IN WRITING BY THE ATTORNEY GENERAL MAY ISSUE IN ANY COURT IN THE STATE A SUBPOENA REQUIRING A PERSON TO:

(I) PRODUCE DOCUMENTARY MATERIAL FOR INSPECTION, COPYING, OR REPRODUCTION;

(II) ANSWER, UNDER OATH AND IN WRITING, WRITTEN INTERROGATORIES;

(III) GIVE SWORN ORAL TESTIMONY; OR

(IV) PROVIDE ANY COMBINATION OF ITEMS (I), (II), AND (III) OF THIS PARAGRAPH.

(2) A SUBPOENA ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE SERVED IN THE SAME MANNER AS A SUBPOENA ISSUED BY A CIRCUIT COURT.

(C) (1) (I) IF A PERSON FAILS TO OBEY A LAWFULLY SERVED SUBPOENA ISSUED UNDER SUBSECTION (B) OF THIS SECTION, THE ATTORNEY GENERAL MAY REPORT A FAILURE TO OBEY THE SUBPOENA TO THE CIRCUIT COURT WITH JURISDICTION OVER THE MATTER.

(II) THE ATTORNEY GENERAL SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.

(2) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA ISSUED UNDER SUBSECTION (B) OF THIS SECTION HAS HAD AN OPPORTUNITY TO BE HEARD AND BE REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, April 25, 2024.