

SECTION A-7.1

Executive Order RP36 - July 12, 2004

Relating to preventing, detecting, and eliminating fraud, waste and abuse.

**BY THE
GOVERNOR OF THE STATE OF TEXAS
Executive Department
Austin, Texas
July 12, 2004**

WHEREAS, government has a sacred trust to guard taxpayers' dollars and maintain the highest standard of integrity, impartiality and conduct, and contractors for state services have a fiduciary responsibility to prevent, detect and report fraud; and

WHEREAS, the State of Texas is entrusted by the taxpayers of the state to provide responsible stewardship through efficient and honest governance, and all state agencies have a responsibility to prevent and eliminate fraud, and every state employee has an affirmative responsibility to report incidents of fraud; and

WHEREAS, the Governor asked the State Agency Coordinating Council, the Mid-Size Agency Coordinating Council, and the Small State Agency Task Force, to convene a fraud prevention and detection workgroup; and

WHEREAS, the United States Department of Labor estimates that during calendar year 2001, about \$2.4 billion in overpayments occurred in the unemployment insurance system nationwide, with about \$577 million (24 percent) attributable to fraud or abuse; and

WHEREAS, the immediate reduction in benefit fraud and claims overpayments would substantially impact the solvency of the Unemployment Insurance Trust Fund and would benefit employers and citizens by further promoting the goals of the unemployment insurance system; and

WHEREAS, effective and innovative state policies, system management, and operational practices can address and limit unemployment benefit fraud and claims overpayments, and the Texas Workforce Commission is uniquely qualified with the general powers and duties under Labor Code, Section 301.061, and Subchapter E to address these issues; and

WHEREAS, fraud and abuse in the health care system affects all Texans by increasing health care costs, not only to state programs but also to all participants in the private health industry; and

WHEREAS, fraud and abuse by administrative contractors, health care professionals, or clients in the Medicaid program undermines both the purpose of the program and the trust of the taxpayers who fund the program; and

WHEREAS, fraud or abuse reduces funds available to provide health care and other vital services to Texans; and

WHEREAS, opportunities exist to identify best practices for treatment and billing procedures that ensure appropriate and cost-effective participation in the Medicaid program by health care professionals and facilities; and

WHEREAS, opportunities still exist to fight fraud and abuse by requiring coordination between the health professions licensure boards, insurance carriers, employers, patients, and government programs; and

WHEREAS, communications between health professions licensure boards and the Office of the Attorney General, Health and Human Services Commission, Texas Workers' Compensation Commission, and Department of Insurance must be established to allow more effective detection, investigation, and prosecution of fraud and abuse committed by health professionals participating in state and federal health programs; and

WHEREAS, the Texas Department of Insurance is a national leader in detecting and preventing fraud and abuse, and additional opportunities exist for improving detection, investigation and prosecution of fraud and abuse in the private insurance market; and

WHEREAS, workers' compensation fraud hinders economic development and job creation, (in fiscal year 2003 the Texas Workers' Compensation Commission referred to prosecutors more than \$10 million in fraud cases) and additional opportunities exist for improving detection, investigation and prosecution of allegations of fraud and abuse in the workers' compensation system;

NOW, THEREFORE, I, Rick Perry, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas do hereby order the following:

1. *Detect and Fight Fraud in Government.* Each state agency shall comply with the following initiatives and directives to prevent, detect, and eliminate fraud, waste, and abuse in state government.
 - o The state agency workgroup shall submit a report to the Office of the Governor.
The report shall include:
 - a. risk assessment tools to help agencies determine vulnerabilities;
 - b. best practices that eliminate fraud in contracting, contract management and procurement; and
 - c. common components for fraud prevention and elimination programs.
 - o Each agency must designate a contact person for its fraud prevention and elimination activities; the contact person shall report directly to the agency executive director, commissioner, or board chair.
 - o Each agency shall develop a fraud prevention program that includes, at a minimum, the recommended common components developed by the state agency

workgroup. These programs must be in place by October 1, 2004. If an agency already has a fraud prevention and elimination program, the agency shall ensure that its program includes the recommended common components.

- Each agency shall review its existing rules, policies, organizational structure and statutes to identify changes needed to better detect and fight fraud.
- Each agency shall report its actions to comply with this executive order and any recommended statutory changes to improve its fraud prevention and elimination efforts to the anti-fraud coordinator in the Office of the Governor no later than October 1, 2004.

2. *Target Fraud in the Unemployment Insurance Program.* The Texas Workforce Commission shall prioritize prevention, detection and elimination of fraud and abuse in the Unemployment Insurance Program.

- The Texas Workforce Commission shall identify any state policies, management and operational practices, weaknesses in existing computer cross-matching systems, and other appropriate factors that are ineffective in preventing and detecting fraud and abuse in the Unemployment Insurance Program.
- The Texas Workforce Commission shall develop innovative strategies to address benefit fraud and claims overpayments, identify any worker misclassification resulting in underpayments to the Unemployment Insurance Trust Fund, and improve claimants' job search and placement strategies in order to reduce the percentage of claimants who exhaust unemployment compensation benefits.
- The Texas Workforce Commission shall identify and implement national best practices for detecting and prosecuting fraudulent schemes, identify cost-effective strategies designed to eliminate fraud, reduce benefit payment inaccuracies, and increase recovery of claims overpayments and employer delinquent accounts.
- The Texas Workforce Commission shall make recommendations on the benefit of authorizing the commission to enter into contractual arrangements with private collection agencies to assist in pursuing uncollected overpayments of unemployment benefits.
- The Texas Workforce Commission shall implement a comprehensive process to promote high quality benefit determination and avoid improper disqualification or denial of benefits.
- The Texas Workforce Commission shall increase the profile of its fight against fraud on its website.

3. *Target Fraud in the Health Care System.* All state agencies that operate programs or regulate participants of the health care system shall focus on the prevention, detection, and elimination of fraud and abuse in the health care system.
- The Health and Human Services Commission and Office of the Attorney General shall use all available resources to pursue Medicaid fraud cases against individuals and entities. Punishment of these violators may include administrative, civil, and criminal penalties. When violations indicate both civil and criminal intent, both civil and criminal penalties shall be pursued.
 - The Health and Human Services Commission, through its agreement with the Centers for Medicare & Medicaid Services, shall conduct a computer matching program to study claims, billing, and eligibility information to detect Medicare and Medicaid fraud and abuse in Texas.
 - The Office of Inspector General and Health and Human Services Commission shall broaden technology use and develop and implement aggressive deployment of technological tools which can: a) reveal patterns of behavior by providers and allow investigative resources to target any inappropriate practice patterns; and b) through improved education of providers and recipients, focus on reducing expenditures for services that are not medically necessary or justified.
 - All health professions licensure boards shall coordinate and cooperate with other relevant state agencies to create seamless disciplinary systems for health care professionals that eliminate inconsistencies between disciplinary actions taken by the different state entities responsible for oversight of health care professionals.
 - The Health Professions Council shall convene a work group consisting of a total of four members from licensure boards, and one representative each from the Office of Attorney General, Health and Human Services Commission, Texas Workers' Compensation Commission, and Department of Insurance to develop a consistent set of policies for the health professions licensure boards to adopt to ensure consistent application of policies and practices for detecting, investigating, and prosecuting fraud and abuse as well as for sharing information with other state agencies regarding allegations of fraud and abuse by health care professionals in government programs.
 - The Department of Insurance shall periodically disseminate best practices information to assist insurers, law enforcement personnel, prosecutors and other persons involved in insurance transactions to enhance fraud detection, reporting,

- investigation, and prosecution of all types of insurance fraud, as well as to encourage improvement and implementation of anti-fraud plans submitted by carriers.
- The Department of Insurance shall increase the public profile of its efforts to address fraud and abuse, including the recent Fraud Conference; the availability of training to identify fraud and abuse; the toll-free hotline, 888-327-8818 to report fraud; the web-page www.tdi.state.tx.us/fraud/, dedicated to the reporting of fraud; the availability of prosecutor and investigation assistance by the department; and coordination with other state and local agencies. The agency shall further increase partnerships to identify, investigate and prosecute fraud and abuse in all types of insurance by providers, insurers, agents, and claimants.
 - The Texas Workers' Compensation Commission shall use enhanced technology and develop and implement aggressive deployment of technological tools to reveal patterns of behavior by system participants and target investigative resources towards inappropriate patterns.
 - The Texas Workers' Compensation Commission shall increase the public profile of its efforts to address fraud and abuse, to dedicate a web-page to fraud reporting, and to coordinate efforts with other state agencies. The Commission shall further promote reporting of fraud on the toll-free Fraud Hotline, 888-327-8818, and on-line at www.twcc.state.tx.us. The commission also shall increase partnerships to identify, investigate and prosecute fraud and abuse in the workers' compensation system.

This executive order shall supersede all previous executive orders on the same issue and shall remain in effect until modified, amended, rescinded, or superseded by me or by a succeeding Governor.

Given under my hand this the 12th day of July, 2004.

RICK PERRY
Governor

ATTESTED BY:
GEOFFREY S. CONNOR
Secretary of State