

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0287.02 Brita Darling

SENATE BILL 10-167

SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

Riesberg,

Senate Committees

Health and Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASED EFFICIENCY IN THE ADMINISTRATION OF THE**
102 **"COLORADO MEDICAL ASSISTANCE ACT", AND, IN CONNECTION**
103 **THEREWITH, CREATING THE "COLORADO MEDICAID FALSE**
104 **CLAIMS ACT", REQUIRING A POST-ENACTMENT REVIEW OF THE**
105 **IMPLEMENTATION OF THIS ACT, AND MAKING AN**
106 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill requires the executive director of the department of health care policy and financing (state department) to appoint an internal auditor for purposes of conducting internal audits of the state department, coordinating external audits of the state department, and conducting and supervising performance audits to ensure effective and efficient operation and administration of state department programs.

The bill requires the executive director of the state department to appoint a chief medical officer, who will receive a salary consistent with moneys available through general fund appropriations or otherwise.

The bill requires the state department to ensure that persons who receive public benefits from this state are not also receiving them from other states.

The bill authorizes the state department to purchase health insurance for medical assistance recipients who are eligible to enroll in private health insurance plans if the purchase is cost effective for the state. The bill limits the number of such purchases to 2,000 clients.

The bill removes the authority of the state department to waive the recovery or adjustment of an overpayment for medical assistance if the recovery or adjustment would be inequitable.

The bill requires the state department to implement and maintain a system for reducing medical services coding errors through the use of automatic, prepayment review of medical assistance claims. The state department shall implement a system using nationally recognized correct coding methods and shall report to the legislature concerning the implementation of the system and any savings in state expenditures realized through the use of the system.

As a condition of doing business in the state, the bill authorizes the state department, or an independent contractor retained by the state department, to bill a third party on behalf of a provider of pharmaceutical services if the third party is determined to be a first payer for such services.

The bill authorizes a civil action by the state or a private person (relator) against a person who submits a false claim to the state in connection with medicaid and specifies penalties for submitting false claims. The bill establishes procedures if an action is commenced by a relator and specifies percentages of recoveries that may be awarded as attorney fees.

The bill establishes a private right of action against an individual who retaliates against a relator because the relator takes lawful action in furtherance of a false claim action. It specifies requirements for a claim of and damages for retaliation against a relator.

The bill establishes a statute of limitations for false claims.

The bill establishes procedures for the attorney general to serve upon a person a civil investigative demand requiring the person to answer written or oral questions and to produce documents in the person's

possession or control.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** It is the intent of the
3 general assembly that the implementation of this act shall result in
4 significant reduction in the general fund expenditures for public medical
5 benefits as is shown by the appropriations in the act and in the final
6 general fund fiscal estimate for the act.

7 **SECTION 2.** 25.5-1-104, Colorado Revised Statutes, is amended
8 BY THE ADDITION OF A NEW SUBSECTION to read:

9 **25.5-1-104. Department of health care policy and financing**
10 **created - executive director - powers, duties, and functions.**

11 (5) (a) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL
12 APPOINT AN INTERNAL AUDITOR WHO SHALL HAVE THE STATUS OF A
13 DIVISION DIRECTOR AND, AS SUCH, SHALL HAVE THE AUTHORITY TO
14 APPOINT SUCH PERSONNEL AS MAY BE NECESSARY TO CARRY OUT THE
15 DUTIES OF THE INTERNAL AUDITOR.

16 (b) THE INTERNAL AUDITOR APPOINTED BY THE EXECUTIVE
17 DIRECTOR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL:

18 (I) CONDUCT AND SUPERVISE INTERNAL AUDITS OF THE STATE
19 DEPARTMENT;

20 (II) COORDINATE AND FACILITATE EXTERNAL AUDITS THAT ARE
21 PERFORMED ON THE STATE DEPARTMENT BY STATE AND FEDERAL
22 ENTITIES;

23 (III) CONDUCT AND SUPERVISE PERFORMANCE AUDITS FOR THE
24 PURPOSE OF DETERMINING THE EFFICIENCY AND EFFECTIVENESS OF THE
25 STATE DEPARTMENT'S OPERATION AND ADMINISTRATION OF PROGRAMS;

1 AND

2 (IV) CONDUCT SUCH OTHER AUDITS AND PERFORM SUCH OTHER
3 DUTIES AS MAY BE SPECIFIED BY THE EXECUTIVE DIRECTOR.

4 **SECTION 3.** 25.5-1-105.5 (1), Colorado Revised Statutes, is
5 amended, and the said 25.5-1-105.5 is further amended BY THE
6 ADDITION OF A NEW SUBSECTION, to read:

7 **25.5-1-105.5. Chief medical officer - qualifications.** (1) The
8 executive director ~~may~~ SHALL appoint a chief medical officer who shall:

9 (a) Have a degree of doctor of medicine or doctor of osteopathy
10 and be licensed to practice medicine in the state of Colorado;

11 (b) Have at least two years of postgraduate experience in primary
12 care; and

13 (c) Have at least two years of experience in an administrative
14 capacity in a health care organization.

15 (3) THE CHIEF MEDICAL OFFICER SHALL RECEIVE A SALARY WITHIN
16 THE LIMITS OF MONEYS MADE AVAILABLE TO THE STATE DEPARTMENT BY
17 APPROPRIATION OF THE GENERAL ASSEMBLY OR OTHERWISE.

18 **SECTION 4.** 25.5-4-209, Colorado Revised Statutes, is amended
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **25.5-4-209. Payments by third parties - copayments by**
21 **recipients - review - appeal.** (4) WITH RESPECT TO PROGRAMS
22 ADMINISTERED BY THE STATE DEPARTMENT, THE STATE DEPARTMENT
23 SHALL ACCESS AVAILABLE DATA FROM THE PUBLIC ASSISTANCE
24 REPORTING INFORMATION SYSTEM FOR THE PURPOSE OF IDENTIFYING
25 PERSONS WHO ARE RECEIVING CERTAIN PUBLIC BENEFITS FROM OTHER
26 STATES. THE STATE DEPARTMENT SHALL ENSURE THAT DUPLICATE
27 BENEFITS ARE NOT BEING PAID IMPROPERLY TO PERSONS IDENTIFIED

1 PURSUANT TO THE PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM.

2 **SECTION 5.** 25.5-4-210 (1), Colorado Revised Statutes, is
3 amended to read:

4 **25.5-4-210. Purchase of health insurance for recipients.**

5 (1) (a) The state department shall purchase group health insurance for a
6 medical assistance recipient who is eligible to enroll for such coverage if
7 enrollment of such recipient in the group plan would be cost-effective.
8 In addition, the state department may purchase individual health
9 insurance for a medical assistance recipient who is eligible to enroll in a
10 health insurance plan if enrollment of such recipient would be
11 cost-effective to this state. A determination of cost-effectiveness shall be
12 in accordance with federal guidelines established by the secretary of the
13 United States department of health and human services.

14 (b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
15 SUBSECTION (1) TO THE CONTRARY, THE STATE DEPARTMENT, IN
16 PURCHASING HEALTH INSURANCE FOR MEDICAL ASSISTANCE RECIPIENTS
17 WHO ARE ELIGIBLE TO ENROLL FOR PRIVATE COVERAGE, SHALL NOT
18 PURCHASE SUCH HEALTH INSURANCE FOR MORE THAN TWO THOUSAND
19 INDIVIDUALS.

20 **SECTION 6.** 25.5-4-301 (2) (a) (II), Colorado Revised Statutes,
21 is amended to read:

22 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
23 **adjustments - liens - review or audit procedures - repeal.** (2) Any
24 overpayment to a provider, including those of personal needs funds made
25 pursuant to section 25.5-6-206, shall be recoverable regardless of whether
26 the overpayment is the result of an error by the state department, a county
27 department of social services, an entity acting on behalf of either

1 department, or by the provider or any agent of the provider as follows:

2 (a) (II) If the state department makes a determination that such
3 overpayment has been made for some other reason than a false
4 representation by the provider specified in subparagraph (I) of this
5 paragraph (a), the state department may collect the amount of
6 overpayment, plus interest accruing at the statutory rate from the date the
7 provider is notified of such overpayment, by the means specified in this
8 subsection (2). Pursuant to the criteria established in rules promulgated
9 by the state board, the state department may waive the recovery or
10 adjustment of all or part of the overpayment and accrued interest
11 specified in this subparagraph (II) if it would be inequitable, uncollectible
12 or administratively impracticable; EXCEPT THAT NO ACTION SHALL BE
13 TAKEN AGAINST A RECIPIENT OF MEDICAL SERVICES IF THE OVERPAYMENT
14 OCCURRED THROUGH NO FAULT OF THE RECIPIENT. Amounts remaining
15 uncollected for more than five years after the last repayment was made
16 may be considered uncollectible.

17 **SECTION 7.** Part 3 of article 4 of title 25.5, Colorado Revised
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
19 read:

20 **25.5-4-300.7. Prevention of coding errors - prepayment review**
21 **of claims.** (1) THE STATE DEPARTMENT SHALL IMPLEMENT AND
22 MAINTAIN A SYSTEM FOR REDUCING MEDICAL SERVICES CODING ERRORS
23 IN MEDICAID CLAIMS SUBMITTED TO THE STATE DEPARTMENT FOR
24 REIMBURSEMENT. THE SYSTEM SHALL INCLUDE AUTOMATIC, PREPAYMENT
25 REVIEW OF MEDICAID CLAIMS THROUGH THE USE OF NATIONALLY
26 RECOGNIZED CORRECT CODING METHODS IN THE MEDICAID MANAGEMENT
27 INFORMATION SYSTEM. THE STATE DEPARTMENT SHALL ACQUIRE AND

1 MAINTAIN ANY INFORMATION TECHNOLOGY NECESSARY TO IMPLEMENT
2 THE AUTOMATED, PREPAYMENT REVIEW OF MEDICAID CLAIMS.

3 (2) ON OR BEFORE JANUARY 31, 2011, AND ON OR BEFORE
4 JANUARY 31 EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL
5 SUBMIT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY
6 AND TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE
7 OF REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES, A
8 REPORT CONCERNING THE SYSTEM IMPLEMENTED AND MAINTAINED BY
9 THE STATE DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION.
10 THE REPORT SHALL INCLUDE, AT A MINIMUM, THE NUMBER AND DOLLAR
11 VALUE OF MEDICAL SERVICES CODING ERRORS IDENTIFIED DURING THE
12 PREVIOUS YEAR THROUGH THE USE OF THE SYSTEM.

13 **SECTION 8.** Part 5 of article 5 of title 25.5, Colorado Revised
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
15 read:

16 **25.5-5-500.3. Authorization to bill third party.** AS A
17 CONDITION OF DOING BUSINESS IN THE STATE, EACH PROVIDER IS DEEMED
18 TO AUTHORIZE THE STATE DEPARTMENT, OR AN INDEPENDENT
19 CONTRACTOR RETAINED BY THE STATE DEPARTMENT, TO BILL A THIRD
20 PARTY, AS DEFINED IN SECTION 25.5-4-209 (2) (g) (II), ON BEHALF OF THE
21 PROVIDER IF THE THIRD PARTY IS DETERMINED TO BE LIABLE TO PAY FOR
22 CARE PURSUANT TO SECTIONS 25.5-4-209 AND 25.5-4-300.4.

23 **SECTION 9.** Part 3 of article 4 of title 25.5, Colorado Revised
24 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
25 read:

26 **25.5-4-303.5. Short title.** THIS SECTION AND SECTIONS
27 25.5-4-304 TO 25.5-4-310 SHALL BE KNOWN AND MAY BE CITED AS THE

1 "COLORADO MEDICAID FALSE CLAIMS ACT".

2 **SECTION 10.** 25.5-4-304, Colorado Revised Statutes, is
3 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

4 **25.5-4-304. Definitions.** AS USED IN SECTIONS 25.5-4-303.5 TO
5 25.5-4-309, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (1) (a) "CLAIM" MEANS A REQUEST OR DEMAND FOR MONEY OR
7 PROPERTY, WHETHER UNDER A CONTRACT OR OTHERWISE, AND
8 REGARDLESS OF WHETHER THE STATE HAS TITLE TO THE MONEY OR
9 PROPERTY, UNDER THE "COLORADO MEDICAL ASSISTANCE ACT" THAT IS:

10 (I) PRESENTED TO AN OFFICER, EMPLOYEE, OR AGENT OF THE
11 STATE; OR

12 (II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER RECIPIENT IF
13 THE MONEY OR PROPERTY IS TO BE SPENT OR USED ON THE STATE'S BEHALF
14 OR TO ADVANCE A PROGRAM OR INTEREST OF THE STATE AND IF THE
15 STATE:

16 (A) PROVIDES OR HAS PROVIDED ANY PORTION OF THE MONEY OR
17 PROPERTY REQUESTED OR DEMANDED; OR

18 (B) WILL REIMBURSE THE CONTRACTOR, GRANTEE, OR OTHER
19 RECIPIENT FOR ANY PORTION OF THE MONEY OR PROPERTY THAT IS
20 REQUESTED OR DEMANDED.

21 (b) "CLAIM" DOES NOT INCLUDE A REQUEST OR DEMAND FOR
22 MONEY OR PAYMENT THAT THE STATE HAS PAID TO AN INDIVIDUAL AS
23 COMPENSATION FOR EMPLOYMENT BY THE STATE OR AS AN INCOME
24 SUBSIDY WITH NO RESTRICTION ON THAT INDIVIDUAL'S USE OF THE MONEY
25 OR PROPERTY.

26 (2) "COLORADO MEDICAL ASSISTANCE ACT" MEANS THIS ARTICLE
27 AND ARTICLES 5 AND 6 OF THIS TITLE.

1 (3) (a) "KNOWING" OR "KNOWINGLY" MEANS THAT A PERSON,
2 WITH RESPECT TO INFORMATION:

3 (I) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

4 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF
5 THE INFORMATION; OR

6 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF
7 THE INFORMATION.

8 (b) "KNOWING" OR "KNOWINGLY" DOES NOT REQUIRE PROOF OF
9 SPECIFIC INTENT TO DEFRAUD.

10 (4) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO
11 INFLUENCE, OR BE CAPABLE OF INFLUENCING, THE PAYMENT OR RECEIPT
12 OF MONEY OR PROPERTY.

13 (5) "OBLIGATION" MEANS A FIXED OR CONTINGENT DUTY ARISING
14 FROM AN EXPRESS OR IMPLIED CONTRACTUAL, QUASI-CONTRACTUAL,
15 GRANTOR-GRANTEE, LICENSOR-LICENSEE, STATUTORY, FEE-BASED, OR
16 SIMILAR RELATIONSHIP, AND THE RETENTION OF OVERPAYMENT.

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18 **SECTION 11.** 25.5-4-305, Colorado Revised Statutes, is
19 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

20 **25.5-4-305. False medicaid claims - liability for certain acts.**

21 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (2) AND (5) OF THIS
22 SECTION, A PERSON IS LIABLE TO THE STATE FOR A CIVIL PENALTY OF NOT
23 LESS THAN FIVE THOUSAND DOLLARS AND NOT MORE THAN TEN THOUSAND
24 DOLLARS, PLUS THREE TIMES THE AMOUNT OF DAMAGES THAT THE STATE
25 SUSTAINS BECAUSE OF THE ACT OF THAT PERSON, IF THE PERSON:

26 (a) KNOWINGLY PRESENTS, OR CAUSES TO BE PRESENTED, TO AN
27 OFFICER OR EMPLOYEE OF THE STATE A FALSE OR FRAUDULENT CLAIM FOR

1 PAYMENT OR APPROVAL;

2 (b) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A
3 FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT
4 CLAIM;

5 (c) HAS POSSESSION, CUSTODY, OR CONTROL OF PROPERTY OR
6 MONEY USED, OR TO BE USED, BY THE STATE IN CONNECTION WITH THE
7 "COLORADO MEDICAL ASSISTANCE ACT" AND KNOWINGLY DELIVERS, OR
8 CAUSES TO BE DELIVERED, LESS THAN ALL OF THE MONEY OR PROPERTY;

9 (d) AUTHORIZES THE MAKING OR DELIVERY OF A DOCUMENT
10 CERTIFYING RECEIPT OF PROPERTY USED, OR TO BE USED, BY THE STATE IN
11 CONNECTION WITH THE "COLORADO MEDICAL ASSISTANCE ACT" AND,
12 INTENDING TO DEFRAUD THE STATE, MAKES OR DELIVERS THE RECEIPT
13 WITHOUT COMPLETELY KNOWING THAT THE INFORMATION ON THE RECEIPT
14 IS TRUE;

15 (e) KNOWINGLY BUYS, OR RECEIVES AS A PLEDGE OF AN
16 OBLIGATION OR DEBT, PUBLIC PROPERTY FROM AN OFFICER OR EMPLOYEE
17 OF THE STATE IN CONNECTION WITH THE "COLORADO MEDICAL
18 ASSISTANCE ACT" WHO LAWFULLY MAY NOT SELL OR PLEDGE THE
19 PROPERTY;

20 (f) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED,
21 A FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR
22 TRANSMIT MONEY OR PROPERTY TO THE STATE IN CONNECTION WITH THE
23 "COLORADO MEDICAL ASSISTANCE ACT", OR KNOWINGLY CONCEALS OR
24 KNOWINGLY AND IMPROPERLY AVOIDS OR DECREASES AN OBLIGATION TO
25 PAY OR TRANSMIT MONEY OR PROPERTY TO THE STATE IN CONNECTION
26 WITH THE "COLORADO MEDICAL ASSISTANCE ACT";

27 ==

1 (g) CONSPIRES TO COMMIT A VIOLATION OF PARAGRAPHS (a) TO
2 (f) OF THIS SUBSECTION (1).

3 (2) NOTWITHSTANDING THE AMOUNT OF DAMAGES AUTHORIZED
4 IN SUBSECTION (1) OF THIS SECTION, FOR A PERSON WHO VIOLATES
5 SUBSECTION (1) OF THIS SECTION, THE COURT MAY ASSESS NOT LESS THAN
6 TWICE THE AMOUNT OF DAMAGES THAT THE STATE SUSTAINS BECAUSE OF
7 THE ACT OF THE PERSON IF THE COURT FINDS == THAT:

8 (a) THE PERSON WHO COMMITTED THE VIOLATION OF SUBSECTION
9 (1) OF THIS SECTION FURNISHED TO THE OFFICIALS OF THE STATE
10 RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS VIOLATIONS ALL
11 INFORMATION ABOUT THE VIOLATION KNOWN TO THE PERSON AND
12 FURNISHED SAID INFORMATION WITHIN THIRTY DAYS AFTER THE DATE ON
13 WHICH THE PERSON FIRST OBTAINED THE INFORMATION;

14 (b) AT THE TIME THE PERSON FURNISHED THE INFORMATION ABOUT
15 THE VIOLATION TO THE STATE, A CRIMINAL PROSECUTION, CIVIL ACTION,
16 OR ADMINISTRATIVE ACTION HAD NOT COMMENCED WITH RESPECT TO THE
17 VIOLATION AND THE PERSON DID NOT HAVE ACTUAL KNOWLEDGE OF THE
18 EXISTENCE OF AN INVESTIGATION INTO THE VIOLATION; AND

19 (c) THE PERSON FULLY COOPERATED WITH ANY INVESTIGATION OF
20 THE VIOLATION BY THE STATE.

21 (3) A PERSON VIOLATING THIS SECTION SHALL ALSO BE LIABLE TO
22 THE STATE FOR THE COSTS OF A CIVIL ACTION BROUGHT TO RECOVER ANY
23 PENALTY OR DAMAGES.

24 (4) ANY INFORMATION FURNISHED PURSUANT TO SUBSECTION (2)
25 OF THIS SECTION SHALL BE EXEMPT FROM DISCLOSURE UNDER PART 2 OF
26 ARTICLE 72 OF THIS TITLE.

27 **SECTION 12.** 25.5-4-306, Colorado Revised Statutes, is

1 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

2 **25.5-4-306. Civil actions for false medicaid claims.**

3 (1) **Responsibility of attorney general.** THE ATTORNEY GENERAL SHALL
4 DILIGENTLY INVESTIGATE A VIOLATION UNDER SECTION 25.5-4-305. IF
5 THE ATTORNEY GENERAL FINDS THAT A PERSON HAS VIOLATED OR IS
6 VIOLATING SECTION 25.5-4-305, THE ATTORNEY GENERAL MAY BRING A
7 CIVIL ACTION UNDER THIS SECTION AGAINST THE PERSON.

8 (2) **Actions by private persons.** (a) A RELATOR MAY BRING A
9 CIVIL ACTION FOR A VIOLATION OF SECTION 25.5-4-305 ON BEHALF OF THE
10 RELATOR AND THE STATE. THE ACTION SHALL BE BROUGHT IN THE NAME
11 OF THE STATE. THE ACTION MAY BE DISMISSED ONLY IF THE COURT AND
12 THE ATTORNEY GENERAL GIVE WRITTEN CONSENT TO THE DISMISSAL AND
13 THEIR REASONS FOR CONSENTING.

14 (b) A COPY OF THE COMPLAINT AND WRITTEN DISCLOSURE OF
15 SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THE
16 RELATOR POSSESSES SHALL BE SERVED ON THE STATE PURSUANT TO RULE
17 4 OF THE COLORADO RULES OF CIVIL PROCEDURE. THE COMPLAINT SHALL
18 BE FILED IN CAMERA, SHALL REMAIN UNDER SEAL FOR AT LEAST SIXTY
19 DAYS, AND SHALL NOT BE SERVED ON THE DEFENDANT UNTIL THE COURT
20 SO ORDERS. THE STATE MAY ELECT TO INTERVENE AND PROCEED WITH
21 THE ACTION WITHIN SIXTY DAYS AFTER IT RECEIVES BOTH THE COMPLAINT
22 AND THE MATERIAL EVIDENCE AND INFORMATION.

23 (c) THE STATE MAY, FOR GOOD CAUSE SHOWN, MOVE THE COURT
24 FOR EXTENSIONS OF THE TIME DURING WHICH THE COMPLAINT REMAINS
25 UNDER SEAL UNDER PARAGRAPH (b) OF THIS SUBSECTION (2). ANY SUCH
26 MOTION MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS IN
27 CAMERA. THE DEFENDANT SHALL NOT BE REQUIRED TO RESPOND TO A

1 COMPLAINT FILED UNDER THIS SECTION UNTIL TWENTY DAYS AFTER THE
2 COMPLAINT IS UNSEALED AND SERVED UPON THE DEFENDANT PURSUANT
3 TO RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

4 (d) BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD PURSUANT
5 TO PARAGRAPH (b) OF THIS SUBSECTION (2) OR ANY EXTENSIONS
6 OBTAINED UNDER PARAGRAPH (c) OF THIS SUBSECTION (2), THE STATE
7 SHALL:

8 (I) PROCEED WITH THE ACTION, IN WHICH CASE THE STATE SHALL
9 CONDUCT THE ACTION; OR

10 (II) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE
11 ACTION, IN WHICH CASE THE RELATOR SHALL HAVE THE RIGHT TO
12 CONDUCT THE ACTION.

13 (e) WHEN A RELATOR BRINGS AN ACTION UNDER THIS SUBSECTION
14 (2), THE FEDERAL FALSE CLAIMS ACT, OR ANY SIMILAR PROVISION OF THE
15 LAWS OF ANY OTHER STATE, NO PERSON OTHER THAN THE STATE MAY
16 INTERVENE OR BRING A RELATED ACTION BASED ON THE FACTS
17 UNDERLYING THE PENDING ACTION.

18 (3) **Rights of parties to private actions.** (a) IF THE STATE
19 PROCEEDS WITH AN ACTION BROUGHT UNDER SUBSECTION (2) OF THIS
20 SECTION, IT SHALL HAVE THE PRIMARY RESPONSIBILITY FOR PROSECUTING
21 THE ACTION AND SHALL NOT BE BOUND BY AN ACT OF THE RELATOR. THE
22 RELATOR SHALL HAVE THE RIGHT TO CONTINUE AS A PARTY TO THE
23 ACTION, SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPH (b) OF
24 THIS SUBSECTION (3).

25 (b) (I) THE STATE MAY DISMISS THE ACTION NOTWITHSTANDING
26 THE OBJECTIONS OF THE RELATOR IF THE RELATOR HAS BEEN NOTIFIED BY
27 THE STATE OF THE FILING OF THE MOTION AND THE COURT HAS PROVIDED

1 THE RELATOR WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION.

2 (II) THE STATE MAY SETTLE THE ACTION WITH THE DEFENDANT
3 NOTWITHSTANDING THE OBJECTIONS OF THE RELATOR IF THE COURT
4 DETERMINES, AFTER A HEARING, THAT THE PROPOSED SETTLEMENT IS FAIR,
5 ADEQUATE, AND REASONABLE UNDER ALL THE CIRCUMSTANCES. UPON A
6 SHOWING OF GOOD CAUSE, THE HEARING MAY BE HELD IN CAMERA.

7 (III) UPON A SHOWING BY THE STATE THAT UNRESTRICTED
8 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE RELATOR
9 WOULD INTERFERE WITH OR UNDULY DELAY THE STATE'S PROSECUTION OF
10 THE CASE, OR WOULD BE REPETITIOUS, IRRELEVANT, OR FOR PURPOSES OF
11 HARASSMENT, THE COURT MAY, IN ITS DISCRETION, IMPOSE LIMITATIONS
12 ON THE RELATOR'S PARTICIPATION, INCLUDING BUT NOT LIMITED TO:

13 (A) LIMITING THE NUMBER OF WITNESSES THE RELATOR MAY
14 CALL;

15 (B) LIMITING THE LENGTH OF THE TESTIMONY OF THE WITNESSES;

16 (C) LIMITING THE RELATOR'S CROSS-EXAMINATION OF WITNESSES;

17 OR

18 (D) OTHERWISE LIMITING THE PARTICIPATION BY THE RELATOR IN
19 THE LITIGATION.

20 (IV) UPON A SHOWING BY THE DEFENDANT THAT UNRESTRICTED
21 PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE RELATOR
22 WOULD BE FOR PURPOSES OF HARASSMENT OR WOULD CAUSE THE
23 DEFENDANT UNDUE BURDEN OR UNNECESSARY EXPENSE, THE COURT MAY
24 LIMIT THE PARTICIPATION BY THE RELATOR IN THE LITIGATION.

25 (c) IF THE STATE ELECTS NOT TO PROCEED WITH THE ACTION, THE
26 RELATOR WHO INITIATED THE ACTION SHALL HAVE THE RIGHT TO
27 CONDUCT THE ACTION. IF THE STATE SO REQUESTS, IT SHALL BE SERVED

1 WITH COPIES OF ALL PLEADINGS FILED IN THE ACTION AND, AT THE STATE'S
2 EXPENSE, SHALL BE SUPPLIED WITH COPIES OF ALL DEPOSITION
3 TRANSCRIPTS. WHEN A RELATOR PROCEEDS WITH THE ACTION, THE
4 COURT, WITHOUT LIMITING THE STATUS AND RIGHTS OF THE RELATOR,
5 MAY NEVERTHELESS PERMIT THE STATE TO INTERVENE AT A LATER DATE
6 UPON A SHOWING OF GOOD CAUSE.

7 (d) REGARDLESS OF WHETHER THE STATE PROCEEDS WITH THE
8 ACTION, UPON A SHOWING BY THE STATE THAT CERTAIN ACTIONS OF
9 DISCOVERY BY THE RELATOR WOULD INTERFERE WITH THE STATE'S
10 INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING
11 OUT OF THE SAME FACTS, THE COURT MAY STAY THE DISCOVERY FOR A
12 PERIOD OF NOT MORE THAN SIXTY DAYS. THE SHOWING SHALL BE
13 CONDUCTED IN CAMERA. THE COURT MAY EXTEND THE SIXTY-DAY PERIOD
14 UPON A FURTHER SHOWING IN CAMERA THAT THE STATE HAS PURSUED THE
15 CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS WITH REASONABLE
16 DILIGENCE AND THAT ANY PROPOSED DISCOVERY IN THE CIVIL ACTION
17 WILL INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION
18 OR PROCEEDINGS.

19 (e) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF
20 THIS SECTION, THE STATE MAY ELECT TO PURSUE ITS CLAIM THROUGH ANY
21 ALTERNATE REMEDY AVAILABLE TO THE STATE, INCLUDING ANY
22 ADMINISTRATIVE PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY.
23 IF AN ALTERNATE REMEDY IS PURSUED IN ANOTHER PROCEEDING, THE
24 RELATOR SHALL HAVE THE SAME RIGHTS IN THE PROCEEDING AS THE
25 RELATOR WOULD HAVE HAD IF THE ACTION HAD CONTINUED UNDER THIS
26 SECTION. ANY FINDING OF FACT OR CONCLUSION OF LAW MADE IN
27 ANOTHER PROCEEDING THAT HAS BECOME FINAL SHALL BE CONCLUSIVE

1 ON ALL PARTIES TO AN ACTION UNDER THIS SECTION. FOR PURPOSES OF
2 THIS PARAGRAPH (e), A FINDING OR CONCLUSION IS FINAL IF IT HAS BEEN
3 FINALLY DETERMINED ON APPEAL TO THE APPROPRIATE COURT OF THE
4 STATE, IF ALL TIME FOR FILING SUCH AN APPEAL WITH RESPECT TO THE
5 FINDING OR CONCLUSION HAS EXPIRED, OR IF THE FINDING OR CONCLUSION
6 IS NOT SUBJECT TO JUDICIAL REVIEW.

7 (4) **Award to private persons.** (a) (I) IF THE STATE PROCEEDS
8 WITH AN ACTION BROUGHT BY A RELATOR UNDER SUBSECTION (2) OF THIS
9 SECTION, THE RELATOR SHALL, SUBJECT TO SUBPARAGRAPH (II) OF THIS
10 PARAGRAPH (a), RECEIVE AT LEAST FIFTEEN PERCENT BUT NOT MORE THAN
11 TWENTY-FIVE PERCENT OF THE PROCEEDS OF THE ACTION OR SETTLEMENT
12 OF THE CLAIM, DEPENDING UPON THE EXTENT TO WHICH THE RELATOR
13 SUBSTANTIALLY CONTRIBUTED TO THE PROSECUTION OF THE ACTION.

14 (II) IF THE COURT FINDS THE ACTION TO BE BASED PRIMARILY ON
15 DISCLOSURES OF SPECIFIC INFORMATION, OTHER THAN INFORMATION
16 PROVIDED BY THE RELATOR, RELATING TO ALLEGATIONS OR
17 TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A
18 LEGISLATIVE, ADMINISTRATIVE, OR STATE AUDITOR'S REPORT, HEARING,
19 AUDIT, OR INVESTIGATION, OR FROM THE NEWS MEDIA, THE COURT MAY
20 AWARD TO THE RELATOR SUCH SUMS AS IT CONSIDERS APPROPRIATE, BUT
21 IN NO CASE MORE THAN TEN PERCENT OF THE PROCEEDS, TAKING INTO
22 ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF THE
23 RELATOR IN ADVANCING THE CASE TO LITIGATION.

24 (III) ANY PAYMENT TO A RELATOR UNDER SUBPARAGRAPH (I) OR
25 (II) OF THIS PARAGRAPH (a) SHALL BE MADE FROM THE PROCEEDS. THE
26 RELATOR SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES
27 THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED PLUS

1 REASONABLE ATTORNEY FEES AND COSTS. ALL SUCH EXPENSES, FEES, AND
2 COSTS SHALL BE AWARDED AGAINST THE DEFENDANT.

3 (b) IF THE STATE DOES NOT PROCEED WITH AN ACTION BROUGHT
4 UNDER SUBSECTION (2) OF THIS SECTION, THE RELATOR BRINGING THE
5 ACTION OR SETTling THE CLAIM SHALL RECEIVE AN AMOUNT THAT THE
6 COURT DECIDES IS REASONABLE FOR COLLECTING THE CIVIL PENALTY AND
7 DAMAGES. THE AMOUNT SHALL BE NOT LESS THAN TWENTY-FIVE PERCENT
8 AND NOT MORE THAN THIRTY PERCENT OF THE PROCEEDS OF THE ACTION
9 OR SETTLEMENT AND SHALL BE PAID OUT OF THE PROCEEDS. THE RELATOR
10 SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES THAT THE
11 COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE
12 ATTORNEY FEES AND COSTS. ALL SUCH EXPENSES, FEES, AND COSTS SHALL
13 BE AWARDED AGAINST THE DEFENDANT.

14 (c) REGARDLESS OF WHETHER THE STATE PROCEEDS WITH AN
15 ACTION BROUGHT UNDER SUBSECTION (2) OF THIS SECTION, IF THE COURT
16 FINDS THAT THE ACTION WAS BROUGHT BY A RELATOR WHO PLANNED AND
17 INITIATED THE VIOLATION OF SECTION 25.5-4-305 UPON WHICH THE
18 ACTION WAS BROUGHT, THEN THE COURT MAY, TO THE EXTENT THE COURT
19 CONSIDERS APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE
20 ACTION THAT THE RELATOR WOULD OTHERWISE RECEIVE UNDER
21 PARAGRAPH (a) OR (b) OF THIS SUBSECTION (4), TAKING INTO ACCOUNT
22 THE ROLE OF THE RELATOR IN ADVANCING THE CASE TO LITIGATION AND
23 ANY RELEVANT CIRCUMSTANCES PERTAINING TO THE VIOLATION. IF THE
24 RELATOR IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM HIS OR HER
25 ROLE IN THE VIOLATION OF SECTION 25.5-4-305, THE RELATOR SHALL BE
26 DISMISSED FROM THE CIVIL ACTION AND SHALL NOT RECEIVE ANY SHARE
27 OF THE PROCEEDS OF THE ACTION. SUCH DISMISSAL SHALL NOT PREJUDICE

1 THE RIGHT OF THE STATE TO CONTINUE THE ACTION.

2 (d) IF THE STATE DOES NOT PROCEED WITH AN ACTION BROUGHT
3 UNDER SUBSECTION (2) OF THIS SECTION AND THE RELATOR BRINGING THE
4 ACTION CONDUCTS THE ACTION, THE COURT MAY AWARD TO THE
5 DEFENDANT ITS REASONABLE ATTORNEY FEES AND EXPENSES IF THE
6 DEFENDANT PREVAILS IN THE ACTION AND THE COURT FINDS THAT THE
7 CLAIM OF THE RELATOR WAS CLEARLY FRIVOLOUS, CLEARLY VEXATIOUS,
8 OR BROUGHT PRIMARILY FOR PURPOSES OF HARASSMENT.

9 (5) **Certain actions barred.** (a) A COURT SHALL NOT HAVE
10 JURISDICTION OVER AN ACTION BROUGHT UNDER THIS SECTION AGAINST
11 A MEMBER OF THE GENERAL ASSEMBLY, A MEMBER OF THE STATE
12 JUDICIARY, OR AN ELECTED OFFICIAL IN THE EXECUTIVE BRANCH OF THE
13 STATE OF COLORADO.

14 (b) A RELATOR SHALL NOT BRING AN ACTION UNDER SUBSECTION
15 (2) OF THIS SECTION THAT IS BASED UPON ALLEGATIONS OR TRANSACTIONS
16 THAT ARE THE SUBJECT OF A CIVIL SUIT IN A COURT OF THIS STATE OR AN
17 ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN WHICH THE STATE
18 IS ALREADY A PARTY.

19 (c) (I) A COURT SHALL NOT HAVE JURISDICTION OVER AN ACTION
20 BROUGHT UNDER SUBSECTION (2) OF THIS SECTION IF THE ACTION IS BASED
21 UPON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS IN A
22 CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A LEGISLATIVE,
23 ADMINISTRATIVE, OR STATE AUDITOR'S REPORT, HEARING, AUDIT, OR
24 INVESTIGATION, OR FROM THE NEWS MEDIA, UNLESS THE ACTION IS
25 BROUGHT BY THE STATE OR THE RELATOR IS AN ORIGINAL SOURCE OF THE
26 INFORMATION THAT IS THE BASIS FOR THE ACTION.

27 (II) FOR PURPOSES OF THIS PARAGRAPH (c), "ORIGINAL SOURCE"

1 MEANS AN INDIVIDUAL WHO HAS DIRECT AND INDEPENDENT KNOWLEDGE
2 OF THE INFORMATION ON WHICH THE ALLEGATIONS ARE BASED AND HAS
3 VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE BEFORE FILING
4 AN ACTION UNDER SUBSECTION (2) OF THIS SECTION THAT IS BASED ON THE
5 INFORMATION.

6 (6) **State not liable for certain expenses.** THE STATE IS NOT
7 LIABLE FOR EXPENSES THAT A RELATOR INCURS IN BRINGING AN ACTION
8 UNDER THIS SECTION.

9 (7) **Private action for retaliation.** (a) A RELATOR SHALL BE
10 ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE RELATOR WHOLE, IF
11 THE RELATOR IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED,
12 HARASSED, _____ OR IN ANY OTHER MANNER RETALIATED AGAINST OR
13 DISCRIMINATED AGAINST IN THE TERMS AND CONDITIONS OF THE
14 RELATOR'S EMPLOYMENT _____ BY THE DEFENDANT OR BY ANY OTHER
15 PERSON BECAUSE OF LAWFUL ACTS DONE BY THE RELATOR IN
16 FURTHERANCE OF AN ACTION UNDER THIS SECTION OR IN FURTHERANCE OF
17 AN EFFORT TO STOP ANY VIOLATIONS OF SECTION 25.5-4-305.

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19 _____

20 (b) (I) A RELATOR WHO SEEKS RELIEF PURSUANT TO THIS
21 SUBSECTION (7) SHALL BE ENTITLED TO ALL RELIEF NECESSARY TO MAKE
22 THE RELATOR WHOLE. SUCH RELIEF SHALL INCLUDE, BUT NEED NOT BE
23 LIMITED TO:

24 (A) IF THE RELATOR IS AN EMPLOYEE, REINSTATEMENT WITH THE
25 SAME SENIORITY STATUS THE RELATOR WOULD HAVE HAD BUT FOR THE
26 DISCRIMINATION, TWICE THE AMOUNT OF BACK PAY, AND INTEREST ON THE
27 BACK PAY; AND

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(B) COMPENSATION FOR ANY SPECIAL DAMAGES SUSTAINED AS A RESULT OF THE DISCRIMINATION OR RETALIATION, INCLUDING LITIGATION COSTS AND REASONABLE ATTORNEY FEES.

(II) A RELATOR MAY BRING AN ACTION IN THE APPROPRIATE COURT OF THE STATE FOR THE RELIEF PROVIDED IN THIS SUBSECTION (7).

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SECTION 13. Part 3 of article 4 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

25.5-4-307. False medicaid claims procedures. (1) A CIVIL ACTION UNDER SECTION 25.5-4-306 (1) OR (2) MAY NOT BE BROUGHT AFTER THE LATER OF:

(a) MORE THAN SIX YEARS AFTER THE DATE ON WHICH THE VIOLATION OF SECTION 25.5-4-305 IS COMMITTED; OR

(b) MORE THAN THREE YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN BY THE OFFICIAL OF THE STATE CHARGED WITH RESPONSIBILITY TO ACT IN THE CIRCUMSTANCES, BUT IN NO EVENT MORE THAN TEN YEARS AFTER THE DATE ON WHICH THE VIOLATION OF SECTION 25.5-4-305 IS COMMITTED.

(2) IF THE STATE ELECTS TO INTERVENE AND PROCEED WITH AN ACTION BROUGHT UNDER SECTION 25.5-4-306, THE STATE MAY FILE ITS OWN COMPLAINT OR AMEND THE RELATOR'S COMPLAINT TO CLARIFY OR ADD DETAIL TO THE CLAIMS IN WHICH THE STATE IS INTERVENING AND TO ADD ANY ADDITIONAL CLAIMS WITH RESPECT TO WHICH THE STATE

1 CONTENDS IT IS ENTITLED TO RELIEF. FOR STATUTE OF LIMITATIONS
2 PURPOSES, ANY SUCH PLEADINGS BY THE STATE SHALL RELATE BACK TO
3 THE FILING DATE OF THE RELATOR'S COMPLAINT, TO THE EXTENT THAT THE
4 STATE'S CLAIM ARISES OUT OF THE CONDUCT, TRANSACTIONS, OR
5 OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET FORTH, IN THE PRIOR
6 COMPLAINT OF THE RELATOR.

7 (3) IN AN ACTION BROUGHT UNDER SECTION 25.5-4-306, THE
8 STATE OR RELATOR MUST PROVE ALL ESSENTIAL ELEMENTS OF THE CAUSE
9 OF ACTION, INCLUDING DAMAGES, BY A PREPONDERANCE OF THE
10 EVIDENCE.

11 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
12 COLORADO RULES OF CRIMINAL PROCEDURE, OR THE COLORADO RULES OF
13 EVIDENCE, A FINAL JUDGMENT RENDERED IN FAVOR OF THE STATE IN A
14 CRIMINAL PROCEEDING CHARGING FRAUD OR FALSE STATEMENTS,
15 WHETHER UPON A VERDICT AFTER TRIAL OR UPON A PLEA OF GUILTY OR
16 NOLO CONTENDERE, SHALL ESTOP THE DEFENDANT FROM DENYING THE
17 ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION THAT INVOLVES THE
18 SAME TRANSACTION AS IN THE CRIMINAL PROCEEDING AND THAT IS
19 BROUGHT UNDER SECTION 25.5-4-306.

20 **25.5-4-308. False medicaid claims jurisdiction.** AN ACTION
21 UNDER SECTION 25.5-4-306 MAY BE BROUGHT IN ANY JUDICIAL DISTRICT
22 IN WHICH THE DEFENDANT OR, IN THE CASE OF MULTIPLE DEFENDANTS,
23 ANY ONE DEFENDANT CAN BE FOUND, RESIDES, OR TRANSACTS BUSINESS
24 OR IN WHICH AN ACT PROSCRIBED BY SECTION 25.5-4-305 OCCURRED. A
25 SUMMONS AS REQUIRED BY THE COLORADO RULES OF CIVIL PROCEDURE
26 SHALL BE ISSUED BY THE APPROPRIATE DISTRICT COURT AND SERVED AT
27 ANY PLACE.

1 **25.5-4-309. False medicaid claims civil investigation demands.**

2 (1) **General.** (a) (I) WHENEVER THE ATTORNEY GENERAL HAS REASON
3 TO BELIEVE THAT A PERSON MAY BE IN POSSESSION, CUSTODY, OR
4 CONTROL OF DOCUMENTARY MATERIAL OR INFORMATION RELEVANT TO A
5 FALSE MEDICAID CLAIMS LAW INVESTIGATION, THE ATTORNEY GENERAL
6 MAY, BEFORE COMMENCING A CIVIL PROCEEDING UNDER SECTION
7 25.5-4-306 OR OTHER FALSE MEDICAID CLAIMS LAW OR MAKING AN
8 ELECTION UNDER SECTION 25.5-4-306 (2) (d), ISSUE IN WRITING AND
9 CAUSE TO BE SERVED UPON THE PERSON A CIVIL INVESTIGATIVE DEMAND
10 REQUIRING THE PERSON TO:

11 (A) PRODUCE THE DOCUMENTARY MATERIAL FOR INSPECTION AND
12 COPYING;

13 (B) ANSWER IN WRITING WRITTEN INTERROGATORIES WITH
14 RESPECT TO THE DOCUMENTARY MATERIAL OR INFORMATION;

15 (C) GIVE ORAL TESTIMONY CONCERNING THE DOCUMENTARY
16 MATERIAL OR INFORMATION; OR

17 (D) FURNISH ANY COMBINATION OF SUCH MATERIAL, ANSWERS, OR
18 TESTIMONY.

19 (II) THE ATTORNEY GENERAL MAY NOT DELEGATE THE AUTHORITY
20 TO ISSUE CIVIL INVESTIGATIVE DEMANDS UNDER THIS SUBSECTION (1).
21 WHENEVER A CIVIL INVESTIGATIVE DEMAND IS AN EXPRESS DEMAND FOR
22 ANY PRODUCT OF DISCOVERY, THE ATTORNEY GENERAL, THE DEPUTY
23 ATTORNEY GENERAL, OR AN ASSISTANT ATTORNEY GENERAL SHALL CAUSE
24 TO BE SERVED, IN ANY MANNER AUTHORIZED BY THIS SECTION, A COPY OF
25 THE DEMAND UPON THE PERSON FROM WHOM THE DISCOVERY WAS
26 OBTAINED AND SHALL NOTIFY THE PERSON TO WHOM THE DEMAND IS
27 ISSUED OF THE DATE ON WHICH THE COPY WAS SERVED.

1 (b) (I) EACH CIVIL INVESTIGATIVE DEMAND ISSUED UNDER THIS
2 SUBSECTION (1) SHALL STATE THE NATURE OF THE CONDUCT
3 CONSTITUTING THE ALLEGED VIOLATION OF A FALSE MEDICAID CLAIMS
4 LAW THAT IS UNDER INVESTIGATION AND THE APPLICABLE PROVISION OF
5 LAW ALLEGED TO BE VIOLATED.

6 (II) IF THE DEMAND IS FOR THE PRODUCTION OF DOCUMENTARY
7 MATERIAL, THE DEMAND SHALL:

8 (A) DESCRIBE EACH CLASS OF DOCUMENTARY MATERIAL TO BE
9 PRODUCED WITH SUCH DEFINITENESS AND CERTAINTY AS TO PERMIT THE
10 MATERIAL TO BE FAIRLY IDENTIFIED;

11 (B) PRESCRIBE A RETURN DATE FOR EACH SUCH CLASS THAT WILL
12 PROVIDE A REASONABLE PERIOD OF TIME WITHIN WHICH THE MATERIAL SO
13 DEMANDED MAY BE ASSEMBLED AND MADE AVAILABLE FOR INSPECTION
14 AND COPYING; AND

15 (C) IDENTIFY THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR TO
16 WHOM THE MATERIAL SHALL BE MADE AVAILABLE.

17 (III) IF THE DEMAND IS FOR ANSWERS TO WRITTEN
18 INTERROGATORIES, THE DEMAND SHALL:

19 (A) SPECIFY THE WRITTEN INTERROGATORIES TO BE ANSWERED;

20 (B) PRESCRIBE DATES ON WHICH ANSWERS TO WRITTEN
21 INTERROGATORIES SHALL BE SUBMITTED; AND

22 (C) IDENTIFY THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR TO
23 WHOM THE ANSWERS SHALL BE SUBMITTED.

24 (IV) IF THE DEMAND IS FOR THE GIVING OF ORAL TESTIMONY, THE
25 DEMAND SHALL:

26 (A) PRESCRIBE A DATE, TIME, AND PLACE AT WHICH ORAL
27 TESTIMONY SHALL BE COMMENCED AND NOTIFY THE DEPONENT IF THE

1 ORAL TESTIMONY IS TO BE VIDEO OR AUDIO RECORDED;

2 (B) IDENTIFY A FALSE MEDICAID CLAIMS LAW INVESTIGATOR WHO
3 SHALL CONDUCT THE EXAMINATION AND THE CUSTODIAN TO WHOM THE
4 TRANSCRIPT OF THE EXAMINATION SHALL BE SUBMITTED;

5 (C) SPECIFY THAT SUCH ATTENDANCE AND TESTIMONY ARE
6 NECESSARY TO THE CONDUCT OF THE INVESTIGATION;

7 (D) NOTIFY THE PERSON RECEIVING THE DEMAND OF THE RIGHT TO
8 BE ACCOMPANIED BY AN ATTORNEY AND ANY OTHER REPRESENTATIVE;
9 AND

10 (E) DESCRIBE THE GENERAL PURPOSE FOR WHICH THE DEMAND IS
11 BEING ISSUED AND THE GENERAL NATURE OF THE TESTIMONY, INCLUDING
12 THE PRIMARY AREAS OF INQUIRY, THAT WILL BE TAKEN PURSUANT TO THE
13 DEMAND.

14 (V) A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER THIS SECTION
15 THAT IS AN EXPRESS DEMAND FOR ANY PRODUCT OF DISCOVERY SHALL
16 NOT BE RETURNED OR RETURNABLE UNTIL TWENTY DAYS AFTER A COPY OF
17 THE DEMAND HAS BEEN SERVED UPON THE PERSON FROM WHOM THE
18 DISCOVERY WAS OBTAINED.

19 (VI) THE DATE PRESCRIBED FOR THE COMMENCEMENT OF ORAL
20 TESTIMONY PURSUANT TO A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER
21 THIS SECTION SHALL BE A DATE THAT IS NOT LESS THAN SEVEN DAYS
22 AFTER THE DATE ON WHICH THE DEMAND IS RECEIVED, UNLESS THE
23 ATTORNEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL DESIGNATED
24 BY THE ATTORNEY GENERAL DETERMINES THAT EXCEPTIONAL
25 CIRCUMSTANCES ARE PRESENT THAT WARRANT THE COMMENCEMENT OF
26 THE TESTIMONY WITHIN A LESSER PERIOD OF TIME.

27 (VII) THE ATTORNEY GENERAL SHALL NOT AUTHORIZE THE

1 ISSUANCE UNDER THIS SECTION OF MORE THAN ONE CIVIL INVESTIGATIVE
2 DEMAND FOR ORAL TESTIMONY BY THE SAME PERSON UNLESS THE PERSON
3 REQUESTS OTHERWISE OR UNLESS THE ATTORNEY GENERAL, AFTER
4 INVESTIGATION, NOTIFIES THAT PERSON IN WRITING THAT AN ADDITIONAL
5 DEMAND FOR ORAL TESTIMONY IS NECESSARY. NOTWITHSTANDING
6 SECTION 24-31-103, C.R.S., THE ATTORNEY GENERAL SHALL NOT
7 AUTHORIZE THE PERFORMANCE, BY ANY OTHER OFFICER, EMPLOYEE, OR
8 AGENCY, OF ANY FUNCTION VESTED IN THE ATTORNEY GENERAL UNDER
9 THIS SUBPARAGRAPH (VII).

10 (2) **Protected material or information.** (a) A CIVIL
11 INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION
12 SHALL NOT REQUIRE THE PRODUCTION OF DOCUMENTARY MATERIAL, THE
13 SUBMISSION OF ANSWERS TO WRITTEN INTERROGATORIES, OR THE GIVING
14 OF ORAL TESTIMONY IF THE MATERIAL, ANSWERS, OR TESTIMONY WOULD
15 BE PROTECTED FROM DISCLOSURE UNDER:

16 (I) THE STANDARDS APPLICABLE TO SUBPOENAS OR SUBPOENAS
17 DUCES TECUM ISSUED BY A COURT OF THIS STATE TO AID IN A GRAND JURY
18 INVESTIGATION; OR

19 (II) THE STANDARDS APPLICABLE TO DISCOVERY REQUESTS UNDER
20 THE COLORADO RULES OF CIVIL PROCEDURE, TO THE EXTENT THAT THE
21 APPLICATION OF THE STANDARDS TO ANY SUCH DEMAND IS APPROPRIATE
22 AND CONSISTENT WITH THE PROVISIONS AND PURPOSES OF THIS SECTION.

23 (b) A DEMAND THAT IS AN EXPRESS DEMAND FOR A PRODUCT OF
24 DISCOVERY SUPERCEDES ANY INCONSISTENT ORDER, RULE, OR PROVISION
25 OF LAW, OTHER THAN THIS SECTION, PREVENTING OR RESTRAINING
26 DISCLOSURE OF THE PRODUCT OF DISCOVERY TO A PERSON. DISCLOSURE
27 OF A PRODUCT OF DISCOVERY PURSUANT TO AN EXPRESS DEMAND DOES

1 NOT CONSTITUTE A WAIVER OF ANY RIGHT OR PRIVILEGE THAT THE PERSON
2 MAKING THE DISCLOSURE MAY BE ENTITLED TO INVOKE TO RESIST
3 DISCOVERY OF TRIAL PREPARATION MATERIALS.

4 (3) **Service and jurisdiction.** (a) A CIVIL INVESTIGATIVE
5 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION OR A PETITION
6 BROUGHT PURSUANT TO SUBSECTION (10) OF THIS SECTION MAY BE
7 SERVED BY A FALSE MEDICAID CLAIMS LAW INVESTIGATOR, A SHERIFF, OR
8 A DEPUTY SHERIFF AT ANY PLACE WITHIN THE STATE.

9 (b) A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION
10 (1) OF THIS SECTION OR A PETITION FILED UNDER SUBSECTION (10) OF THIS
11 SECTION MAY BE SERVED UPON A PERSON WHO IS NOT FOUND WITHIN THE
12 STATE IN THE MANNER PRESCRIBED BY THE COLORADO RULES OF CIVIL
13 PROCEDURE FOR SERVICE IN ANOTHER STATE OR A FOREIGN COUNTRY. TO
14 THE EXTENT THAT THE COURTS OF THIS STATE CAN ASSERT JURISDICTION
15 OVER ANY SUCH PERSON CONSISTENT WITH DUE PROCESS, THE DISTRICT
16 COURT FOR THE CITY AND COUNTY OF DENVER SHALL HAVE THE SAME
17 JURISDICTION TO TAKE AN ACTION RESPECTING COMPLIANCE WITH THIS
18 SECTION BY ANY SUCH PERSON THAT THE COURT WOULD HAVE IF THE
19 PERSON WERE PERSONALLY WITHIN THE JURISDICTION OF THE COURT.

20 (4) **Service on legal entities and natural persons.** (a) SERVICE
21 OF A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS
22 SECTION OR OF A PETITION FILED UNDER SUBSECTION (10) OF THIS SECTION
23 MAY BE MADE UPON A PARTNERSHIP, CORPORATION, ASSOCIATION, OR
24 OTHER LEGAL ENTITY BY:

25 (I) DELIVERING AN EXECUTED COPY OF THE DEMAND OR PETITION
26 TO A PARTNER, EXECUTIVE OFFICER, MANAGING AGENT, OR GENERAL
27 AGENT OF THE PARTNERSHIP, CORPORATION, ASSOCIATION, OR ENTITY, OR

1 TO AN AGENT AUTHORIZED BY APPOINTMENT OR BY LAW TO RECEIVE
2 SERVICE OF PROCESS ON BEHALF OF THE PARTNERSHIP, CORPORATION,
3 ASSOCIATION, OR ENTITY;

4 (II) DELIVERING AN EXECUTED COPY OF THE DEMAND OR PETITION
5 TO THE PRINCIPAL OFFICE OR PLACE OF BUSINESS OF THE PARTNERSHIP,
6 CORPORATION, ASSOCIATION, OR ENTITY; OR

7 (III) DEPOSITING AN EXECUTED COPY OF THE DEMAND OR PETITION
8 IN THE UNITED STATES MAIL BY REGISTERED OR CERTIFIED MAIL, WITH A
9 RETURN RECEIPT REQUESTED, ADDRESSED TO THE PARTNERSHIP,
10 CORPORATION, ASSOCIATION, OR ENTITY AT ITS PRINCIPAL OFFICE OR
11 PLACE OF BUSINESS.

12 (b) SERVICE OF A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER
13 SUBSECTION (1) OF THIS SECTION OR OF A PETITION FILED UNDER
14 SUBSECTION (10) OF THIS SECTION MAY BE MADE UPON A NATURAL
15 PERSON BY:

16 (I) DELIVERING AN EXECUTED COPY OF THE DEMAND OR PETITION
17 TO THE PERSON; OR

18 (II) DEPOSITING AN EXECUTED COPY OF THE DEMAND OR PETITION
19 IN THE UNITED STATES MAIL BY REGISTERED OR CERTIFIED MAIL, WITH A
20 RETURN RECEIPT REQUESTED, ADDRESSED TO THE PERSON AT THE
21 PERSON'S RESIDENCE, PRINCIPAL OFFICE, OR PLACE OF BUSINESS.

22 (5) **Proof of service.** A VERIFIED RETURN BY THE INDIVIDUAL
23 SERVING A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1)
24 OF THIS SECTION OR A PETITION FILED UNDER SUBSECTION (10) OF THIS
25 SECTION SETTING FORTH THE MANNER OF THE SERVICE SHALL BE PROOF OF
26 THE SERVICE. IN THE CASE OF SERVICE BY REGISTERED OR CERTIFIED
27 MAIL, THE RETURN SHALL BE ACCOMPANIED BY THE RETURN POST OFFICE

1 RECEIPT OF DELIVERY OF THE DEMAND.

2 (6) **Documentary material.** (a) (I) THE PRODUCTION OF
3 DOCUMENTARY MATERIAL IN RESPONSE TO A CIVIL INVESTIGATIVE
4 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION SHALL BE MADE
5 UNDER A SWORN CERTIFICATE, IN THE FORM AS THE DEMAND DESIGNATES,
6 BY:

7 (A) IN THE CASE OF A NATURAL PERSON, THE PERSON TO WHOM
8 THE DEMAND IS DIRECTED; OR

9 (B) IN THE CASE OF A PERSON OTHER THAN A NATURAL PERSON, A
10 PERSON HAVING KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES
11 RELATING TO THE PRODUCTION AND AUTHORIZED TO ACT ON BEHALF OF
12 THE PERSON.

13 (II) THE CERTIFICATE SHALL STATE THAT ALL OF THE
14 DOCUMENTARY MATERIAL REQUIRED BY THE DEMAND AND IN THE
15 POSSESSION, CUSTODY, OR CONTROL OF THE PERSON TO WHOM THE
16 DEMAND IS DIRECTED HAS BEEN PRODUCED AND MADE AVAILABLE TO THE
17 FALSE MEDICAID CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE DEMAND.

18 (b) A PERSON UPON WHOM A CIVIL INVESTIGATIVE DEMAND FOR
19 THE PRODUCTION OF DOCUMENTARY MATERIAL HAS BEEN SERVED UNDER
20 THIS SECTION SHALL MAKE THE MATERIAL AVAILABLE FOR INSPECTION
21 AND COPYING TO THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR
22 IDENTIFIED IN THE DEMAND AT THE PRINCIPAL PLACE OF BUSINESS OF THE
23 PERSON, OR AT SUCH OTHER PLACE AS THE FALSE MEDICAID CLAIMS LAW
24 INVESTIGATOR AND THE PERSON THEREAFTER MAY AGREE AND PRESCRIBE
25 IN WRITING, OR AS THE COURT MAY DIRECT UNDER SUBSECTION (10) OF
26 THIS SECTION. THE MATERIAL SHALL BE MADE SO AVAILABLE ON THE
27 RETURN DATE SPECIFIED IN THE DEMAND, OR ON SUCH LATER DATE AS THE

1 FALSE MEDICAID CLAIMS LAW INVESTIGATOR MAY PRESCRIBE IN WRITING.
2 THE PERSON MAY, UPON WRITTEN AGREEMENT BETWEEN THE PERSON AND
3 THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR, SUBSTITUTE COPIES FOR
4 ORIGINALS OF ALL OR ANY PART OF THE MATERIAL.

5 (7) **Interrogatories.** (a) EACH INTERROGATORY IN A CIVIL
6 INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION
7 SHALL BE ANSWERED SEPARATELY AND FULLY IN WRITING UNDER OATH
8 AND SHALL BE SUBMITTED UNDER A SWORN CERTIFICATE, IN THE FORM
9 THE DEMAND DESIGNATES, BY:

10 (I) IN THE CASE OF A NATURAL PERSON, THE PERSON TO WHOM THE
11 DEMAND IS DIRECTED; OR

12 (II) IN THE CASE OF A PERSON OTHER THAN A NATURAL PERSON,
13 THE PERSON OR PERSONS RESPONSIBLE FOR ANSWERING EACH
14 INTERROGATORY.

15 (b) IF AN INTERROGATORY IS OBJECTED TO, THE REASONS FOR THE
16 OBJECTION SHALL BE STATED IN THE CERTIFICATE INSTEAD OF AN ANSWER.
17 THE CERTIFICATE SHALL STATE THAT ALL INFORMATION REQUIRED BY THE
18 DEMAND AND IN THE POSSESSION, CUSTODY, CONTROL, OR KNOWLEDGE OF
19 THE PERSON TO WHOM THE DEMAND IS DIRECTED HAS BEEN SUBMITTED.
20 TO THE EXTENT THAT ANY INFORMATION IS NOT FURNISHED, THE
21 INFORMATION SHALL BE IDENTIFIED AND REASONS SET FORTH WITH
22 PARTICULARITY REGARDING THE REASONS WHY THE INFORMATION WAS
23 NOT FURNISHED.

24 (8) **Oral examinations.** (a) THE EXAMINATION OF A PERSON
25 PURSUANT TO A CIVIL INVESTIGATIVE DEMAND FOR ORAL TESTIMONY
26 ISSUED UNDER SUBSECTION (1) OF THIS SECTION SHALL BE TAKEN BEFORE
27 AN OFFICER AUTHORIZED TO ADMINISTER OATHS AND AFFIRMATIONS BY

1 THE LAWS OF THE UNITED STATES, THE STATE OF COLORADO, OR THE
2 PLACE WHERE THE EXAMINATION IS HELD. THE OFFICER BEFORE WHOM
3 THE TESTIMONY IS TO BE TAKEN SHALL PUT THE WITNESS ON OATH OR
4 AFFIRMATION AND SHALL, PERSONALLY OR WITH THE ASSISTANCE OF
5 SOMEONE ACTING UNDER THE DIRECTION OF THE OFFICER AND IN THE
6 OFFICER'S PRESENCE, RECORD THE TESTIMONY OF THE WITNESS. THE
7 TESTIMONY SHALL BE TAKEN STENOGRAPHICALLY AND SHALL BE
8 TRANSCRIBED. WHEN THE TESTIMONY IS FULLY TRANSCRIBED, THE
9 OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL PROMPTLY
10 TRANSMIT A COPY OF THE TRANSCRIPT OF THE TESTIMONY TO THE
11 CUSTODIAN. THIS SUBSECTION (8) SHALL NOT PRECLUDE THE TAKING OF
12 TESTIMONY BY ANY MEANS AUTHORIZED BY, AND IN A MANNER
13 CONSISTENT WITH, THE COLORADO RULES OF CIVIL PROCEDURE.

14 (b) THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR CONDUCTING
15 THE EXAMINATION SHALL EXCLUDE FROM THE PLACE WHERE THE
16 EXAMINATION IS HELD ALL PERSONS EXCEPT THE PERSON GIVING THE
17 TESTIMONY, THE ATTORNEY FOR AND ANY OTHER REPRESENTATIVE OF THE
18 PERSON GIVING THE TESTIMONY, THE ATTORNEY FOR THE STATE, ANY
19 PERSON WHO MAY BE AGREED UPON BY THE ATTORNEY FOR THE STATE
20 AND THE PERSON GIVING THE TESTIMONY, THE OFFICER BEFORE WHOM THE
21 TESTIMONY IS TO BE TAKEN, AND THE STENOGRAPHER WHO IS RECORDING
22 THE TESTIMONY.

23 (c) THE ORAL TESTIMONY OF A PERSON TAKEN PURSUANT TO A
24 CIVIL INVESTIGATIVE DEMAND SERVED UNDER THIS SECTION SHALL BE
25 TAKEN IN THE JUDICIAL DISTRICT OF THE STATE WITHIN WHICH THE PERSON
26 RESIDES, IS FOUND, OR TRANSACTS BUSINESS, OR IN ANOTHER PLACE AS
27 MAY BE AGREED UPON BY THE FALSE MEDICAID CLAIMS LAW

1 INVESTIGATOR CONDUCTING THE EXAMINATION AND THE PERSON.

2 (d) WHEN THE TESTIMONY IS FULLY TRANSCRIBED, THE FALSE
3 MEDICAID CLAIMS LAW INVESTIGATOR OR THE OFFICER BEFORE WHOM THE
4 TESTIMONY IS TAKEN SHALL AFFORD THE WITNESS, WHO MAY BE
5 ACCOMPANIED BY COUNSEL, A REASONABLE OPPORTUNITY TO EXAMINE
6 AND READ THE TRANSCRIPT, UNLESS THE WITNESS WAIVES THE
7 EXAMINATION AND READING. ANY CHANGES IN FORM OR SUBSTANCE
8 THAT THE WITNESS DESIRES TO MAKE SHALL BE ENTERED AND IDENTIFIED
9 UPON THE TRANSCRIPT BY THE OFFICER OR THE FALSE MEDICAID CLAIMS
10 LAW INVESTIGATOR, WITH A STATEMENT OF THE REASONS GIVEN BY THE
11 WITNESS FOR MAKING THE CHANGES. THE TRANSCRIPT SHALL THEN BE
12 SIGNED BY THE WITNESS, UNLESS THE WITNESS IN WRITING WAIVES THE
13 SIGNING, IS ILL, CANNOT BE FOUND, OR REFUSES TO SIGN. IF THE WITNESS
14 DOES NOT SIGN THE TRANSCRIPT WITHIN THIRTY DAYS AFTER BEING
15 AFFORDED A REASONABLE OPPORTUNITY TO EXAMINE IT, THE OFFICER OR
16 THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR SHALL SIGN IT AND
17 STATE ON THE RECORD THE FACT OF THE WAIVER, ILLNESS, ABSENCE OF
18 THE WITNESS, OR REFUSAL TO SIGN, TOGETHER WITH THE REASONS, IF ANY,
19 GIVEN THEREFOR.

20 (e) THE OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL
21 CERTIFY ON THE TRANSCRIPT THAT THE WITNESS WAS SWORN BY THE
22 OFFICER AND THAT THE TRANSCRIPT IS A TRUE RECORD OF THE TESTIMONY
23 GIVEN BY THE WITNESS, AND THE OFFICER OR FALSE MEDICAID CLAIMS
24 LAW INVESTIGATOR SHALL PROMPTLY DELIVER THE TRANSCRIPT, OR SEND
25 THE TRANSCRIPT BY REGISTERED OR CERTIFIED MAIL, TO THE CUSTODIAN.

26 (f) UPON PAYMENT OF REASONABLE CHARGES THEREFOR, THE
27 FALSE MEDICAID CLAIMS LAW INVESTIGATOR SHALL FURNISH A COPY OF

1 THE TRANSCRIPT TO THE WITNESS ONLY; EXCEPT THAT THE ATTORNEY
2 GENERAL, THE DEPUTY ATTORNEY GENERAL, OR AN ASSISTANT ATTORNEY
3 GENERAL MAY, FOR GOOD CAUSE, LIMIT THE WITNESS TO INSPECTION OF
4 THE OFFICIAL TRANSCRIPT OF THE TESTIMONY OF THE WITNESS.

5 (g) (I) A PERSON COMPELLED TO APPEAR FOR ORAL TESTIMONY
6 UNDER A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF
7 THIS SECTION MAY BE ACCOMPANIED, REPRESENTED, AND ADVISED BY
8 COUNSEL. COUNSEL MAY ADVISE THE PERSON, IN CONFIDENCE, WITH
9 RESPECT TO ANY QUESTION ASKED OF THE PERSON. THE PERSON OR
10 COUNSEL MAY OBJECT ON THE RECORD TO ANY QUESTION, IN WHOLE OR IN
11 PART, AND SHALL BRIEFLY STATE FOR THE RECORD THE REASON FOR THE
12 OBJECTION. AN OBJECTION MAY BE MADE, RECEIVED, AND ENTERED UPON
13 THE RECORD WHEN IT IS CLAIMED THAT THE PERSON IS ENTITLED TO
14 REFUSE TO ANSWER THE QUESTION ON THE GROUNDS OF ANY
15 CONSTITUTIONAL OR OTHER LEGAL RIGHT OR PRIVILEGE, INCLUDING THE
16 PRIVILEGE AGAINST SELF-INCRIMINATION. THE PERSON MAY NOT
17 OTHERWISE OBJECT TO OR REFUSE TO ANSWER ANY QUESTION AND MAY
18 NOT DIRECTLY OR THROUGH COUNSEL OTHERWISE INTERRUPT THE ORAL
19 EXAMINATION. IF THE PERSON REFUSES TO ANSWER A QUESTION, THE
20 FALSE MEDICAID CLAIMS LAW INVESTIGATOR MAY FILE A PETITION IN A
21 DISTRICT COURT UNDER PARAGRAPH (a) OF SUBSECTION (10) OF THIS
22 SECTION FOR AN ORDER COMPELLING THE PERSON TO ANSWER THE
23 QUESTION.

24 (II) IF THE PERSON REFUSES TO ANSWER A QUESTION ON THE
25 GROUNDS OF THE PRIVILEGE AGAINST SELF-INCRIMINATION, THE FALSE
26 MEDICAID CLAIMS LAW INVESTIGATOR MAY COMPEL THE TESTIMONY OF
27 THE PERSON IN ACCORDANCE WITH THE PROVISIONS OF SECTION

1 13-90-118, C.R.S.

2 (III) A PERSON APPEARING FOR ORAL TESTIMONY UNDER A CIVIL
3 INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION
4 SHALL BE ENTITLED TO THE SAME FEES AND ALLOWANCES THAT ARE PAID
5 TO WITNESSES IN THE DISTRICT COURTS OF THIS STATE.

6 (9) **Custodian of documents, answers, and transcripts.**

7 (a) THE ATTORNEY GENERAL SHALL DESIGNATE A FALSE MEDICAID
8 CLAIMS LAW INVESTIGATOR TO SERVE AS CUSTODIAN OF DOCUMENTARY
9 MATERIAL, ANSWERS TO INTERROGATORIES, AND TRANSCRIPTS OF ORAL
10 TESTIMONY RECEIVED UNDER THIS SECTION AND SHALL DESIGNATE SUCH
11 ADDITIONAL FALSE MEDICAID CLAIMS LAW INVESTIGATORS AS THE
12 ATTORNEY GENERAL DETERMINES FROM TIME TO TIME TO BE NECESSARY
13 TO SERVE AS DEPUTIES TO THE CUSTODIAN.

14 (b) (I) A FALSE MEDICAID CLAIMS LAW INVESTIGATOR WHO
15 RECEIVES ANY DOCUMENTARY MATERIAL, ANSWERS TO
16 INTERROGATORIES, OR TRANSCRIPTS OF ORAL TESTIMONY UNDER THIS
17 SECTION SHALL TRANSMIT THEM TO THE CUSTODIAN. THE CUSTODIAN
18 SHALL TAKE PHYSICAL POSSESSION OF THE MATERIAL, ANSWERS, OR
19 TRANSCRIPTS AND SHALL BE RESPONSIBLE FOR THE USE MADE OF THEM
20 AND FOR THE RETURN OF DOCUMENTARY MATERIAL UNDER PARAGRAPH
21 (d) OF THIS SUBSECTION (9).

22 (II) THE CUSTODIAN MAY CAUSE THE PREPARATION OF COPIES OF
23 THE DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
24 TRANSCRIPTS OF ORAL TESTIMONY AS MAY BE REQUIRED FOR OFFICIAL USE
25 BY A FALSE MEDICAID CLAIMS LAW INVESTIGATOR OR OTHER OFFICER OR
26 EMPLOYEE OF THE DEPARTMENT OF LAW WHO IS AUTHORIZED FOR SUCH
27 USE UNDER REGULATIONS THAT THE ATTORNEY GENERAL SHALL ISSUE.

1 THE MATERIAL, ANSWERS, AND TRANSCRIPTS MAY BE USED BY ANY SUCH
2 AUTHORIZED FALSE MEDICAID CLAIMS LAW INVESTIGATOR OR OTHER
3 OFFICER OR EMPLOYEE IN CONNECTION WITH THE TAKING OF ORAL
4 TESTIMONY UNDER THIS SECTION.

5 (III) (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (9),
6 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
7 TRANSCRIPTS OF ORAL TESTIMONY, OR COPIES THEREOF, WHILE IN THE
8 POSSESSION OF THE CUSTODIAN, SHALL NOT BE AVAILABLE FOR
9 EXAMINATION BY AN INDIVIDUAL OTHER THAN A FALSE MEDICAID CLAIMS
10 LAW INVESTIGATOR OR OTHER OFFICER OR EMPLOYEE OF THE
11 DEPARTMENT OF LAW AUTHORIZED UNDER SUBPARAGRAPH (II) OF THIS
12 PARAGRAPH (b).

13 (B) SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) SHALL
14 NOT APPLY IF CONSENT IS GIVEN BY THE PERSON WHO PRODUCED THE
15 MATERIAL, ANSWERS, OR TRANSCRIPTS OR, IN THE CASE OF ANY PRODUCT
16 OF DISCOVERY PRODUCED PURSUANT TO AN EXPRESS DEMAND FOR THE
17 MATERIAL, IF CONSENT IS GIVEN BY THE PERSON FROM WHOM THE
18 DISCOVERY WAS OBTAINED.

19 (C) NOTHING IN THIS SUBPARAGRAPH (III) IS INTENDED TO
20 PREVENT DISCLOSURE TO THE GENERAL ASSEMBLY, INCLUDING ANY
21 COMMITTEE OF THE GENERAL ASSEMBLY, OR TO ANY OTHER AGENCY OF
22 THE STATE FOR USE BY THE AGENCY IN FURTHERANCE OF ITS STATUTORY
23 RESPONSIBILITIES. DISCLOSURE OF INFORMATION TO ANY SUCH OTHER
24 AGENCY SHALL BE ALLOWED ONLY UPON APPLICATION, MADE BY THE
25 ATTORNEY GENERAL TO A DISTRICT COURT, SHOWING SUBSTANTIAL NEED
26 FOR THE USE OF THE INFORMATION BY THE AGENCY IN FURTHERANCE OF
27 ITS STATUTORY RESPONSIBILITIES.

1 (IV) WHILE IN THE POSSESSION OF THE CUSTODIAN AND UNDER
2 SUCH REASONABLE TERMS AND CONDITIONS AS THE ATTORNEY GENERAL
3 SHALL PRESCRIBE:

4 (A) DOCUMENTARY MATERIAL AND ANSWERS TO
5 INTERROGATORIES SHALL BE AVAILABLE FOR EXAMINATION BY THE
6 PERSON WHO PRODUCED THE MATERIAL OR ANSWERS, OR BY A
7 REPRESENTATIVE OF THAT PERSON AUTHORIZED BY THAT PERSON TO
8 EXAMINE THE MATERIAL AND ANSWERS; AND

9 (B) TRANSCRIPTS OF ORAL TESTIMONY SHALL BE AVAILABLE FOR
10 EXAMINATION BY THE PERSON WHO PRODUCED THE TESTIMONY OR BY A
11 REPRESENTATIVE OF THAT PERSON AUTHORIZED BY THAT PERSON TO
12 EXAMINE THE TRANSCRIPTS.

13 (c) WHENEVER AN ATTORNEY OF THE DEPARTMENT OF LAW HAS
14 BEEN DESIGNATED TO APPEAR BEFORE A COURT, GRAND JURY, OR STATE
15 AGENCY IN A CASE OR PROCEEDING, THE CUSTODIAN OF ANY
16 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
17 TRANSCRIPTS OF ORAL TESTIMONY RECEIVED UNDER THIS SECTION MAY
18 DELIVER TO THE ATTORNEY SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS
19 FOR OFFICIAL USE IN CONNECTION WITH THE CASE OR PROCEEDING AS THE
20 ATTORNEY DETERMINES TO BE REQUIRED. UPON THE COMPLETION OF THE
21 CASE OR PROCEEDING, THE ATTORNEY SHALL RETURN TO THE CUSTODIAN
22 THE MATERIAL, ANSWERS, OR TRANSCRIPTS SO DELIVERED THAT ARE NOT
23 IN THE CONTROL OF THE COURT, GRAND JURY, OR AGENCY THROUGH
24 INTRODUCTION INTO THE RECORD OF THE CASE OR PROCEEDING.

25 (d) THE CUSTODIAN SHALL, UPON WRITTEN REQUEST OF A PERSON
26 WHO PRODUCED ANY DOCUMENTARY MATERIAL IN THE COURSE OF ANY
27 FALSE MEDICAID CLAIMS LAW INVESTIGATION PURSUANT TO A CIVIL

1 INVESTIGATIVE DEMAND UNDER THIS SECTION, RETURN TO THE PERSON
2 ANY SUCH MATERIAL, OTHER THAN COPIES FURNISHED TO THE FALSE
3 MEDICAID CLAIMS LAW INVESTIGATOR UNDER PARAGRAPH (b) OF
4 SUBSECTION (6) OF THIS SECTION OR MADE FOR THE DEPARTMENT OF LAW
5 UNDER SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (9),
6 THAT IS NOT IN THE CONTROL OF A COURT, GRAND JURY, OR AGENCY
7 THROUGH INTRODUCTION INTO THE RECORD OF THE CASE OR PROCEEDING,
8 IF:

9 (I) A CASE OR PROCEEDING BEFORE A COURT OR GRAND JURY
10 ARISING OUT OF THE INVESTIGATION OR ANY PROCEEDING BEFORE A STATE
11 AGENCY INVOLVING THE MATERIAL HAS BEEN COMPLETED; OR

12 (II) A CASE OR PROCEEDING IN WHICH THE MATERIAL MAY BE USED
13 HAS NOT BEEN COMMENCED WITHIN A REASONABLE TIME AFTER
14 COMPLETION OF THE EXAMINATION AND ANALYSIS OF ALL DOCUMENTARY
15 MATERIAL AND OTHER INFORMATION ASSEMBLED IN THE COURSE OF THE
16 INVESTIGATION.

17 (e) (I) IN THE EVENT OF THE DEATH, DISABILITY, OR SEPARATION
18 FROM SERVICE IN THE DEPARTMENT OF LAW OF THE CUSTODIAN OF ANY
19 DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR
20 TRANSCRIPTS OF ORAL TESTIMONY PRODUCED PURSUANT TO A CIVIL
21 INVESTIGATIVE DEMAND UNDER THIS SECTION, OR IN THE EVENT OF THE
22 OFFICIAL RELIEF OF THE CUSTODIAN FROM RESPONSIBILITY FOR THE
23 CUSTODY AND CONTROL OF THE MATERIAL, ANSWERS, OR TRANSCRIPTS,
24 THE ATTORNEY GENERAL SHALL PROMPTLY:

25 (A) DESIGNATE ANOTHER FALSE MEDICAID CLAIMS LAW
26 INVESTIGATOR TO SERVE AS CUSTODIAN OF THE MATERIAL, ANSWERS, OR
27 TRANSCRIPTS; AND

1 (B) TRANSMIT IN WRITING TO THE PERSON WHO PRODUCED THE
2 MATERIAL, ANSWERS, OR TESTIMONY NOTICE OF THE IDENTITY AND
3 ADDRESS OF THE SUCCESSOR SO DESIGNATED.

4 (II) A PERSON WHO IS DESIGNATED TO BE A SUCCESSOR UNDER
5 THIS PARAGRAPH (e) SHALL HAVE, WITH REGARD TO THE MATERIAL,
6 ANSWERS, OR TRANSCRIPTS, THE SAME DUTIES AND RESPONSIBILITIES AS
7 WERE IMPOSED BY THIS SECTION UPON THAT PERSON'S PREDECESSOR IN
8 OFFICE; EXCEPT THAT THE SUCCESSOR SHALL NOT BE HELD RESPONSIBLE
9 FOR ANY DEFAULT OR DERELICTION THAT OCCURRED BEFORE THAT
10 DESIGNATION.

11 (10) **Judicial proceedings.** (a) WHENEVER A PERSON FAILS TO
12 COMPLY WITH A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION
13 (1) OF THIS SECTION, OR WHENEVER SATISFACTORY COPYING OR
14 REPRODUCTION OF THE MATERIAL REQUESTED IN A DEMAND CANNOT BE
15 DONE AND THE PERSON REFUSES TO SURRENDER THE MATERIAL, THE
16 ATTORNEY GENERAL MAY FILE, IN A DISTRICT COURT FOR THE JUDICIAL
17 DISTRICT IN WHICH THE PERSON RESIDES, IS FOUND, OR TRANSACTS
18 BUSINESS, AND SERVE UPON THE PERSON A PETITION FOR AN ORDER OF THE
19 COURT FOR THE ENFORCEMENT OF THE CIVIL INVESTIGATIVE DEMAND.

20 (b) (I) A PERSON WHO HAS RECEIVED A CIVIL INVESTIGATIVE
21 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION MAY FILE A
22 PETITION FOR AN ORDER OF THE COURT TO MODIFY OR SET ASIDE THE
23 DEMAND. THE PERSON SHALL FILE THE PETITION IN A DISTRICT COURT FOR
24 THE JUDICIAL DISTRICT WITHIN WHICH THE PERSON RESIDES, IS FOUND, OR
25 TRANSACTS BUSINESS AND SHALL SERVE A COPY OF THE PETITION UPON
26 THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE
27 DEMAND. IN THE CASE OF A PETITION ADDRESSED TO AN EXPRESS DEMAND

1 FOR A PRODUCT OF DISCOVERY, THE PERSON MAY FILE A PETITION TO
2 MODIFY OR SET ASIDE THE DEMAND ONLY IN THE DISTRICT COURT FOR THE
3 JUDICIAL DISTRICT IN WHICH THE PROCEEDING IN WHICH THE DISCOVERY
4 WAS OBTAINED IS OR WAS LAST PENDING. THE PERSON SHALL FILE A
5 PETITION UNDER THIS SUBPARAGRAPH (I):

6 (A) WITHIN TWENTY DAYS AFTER THE DATE OF SERVICE OF THE
7 CIVIL INVESTIGATIVE DEMAND OR AT ANY TIME BEFORE THE RETURN DATE
8 SPECIFIED IN THE DEMAND, WHICHEVER DATE IS EARLIER; OR

9 (B) WITHIN SUCH LONGER PERIOD AS MAY BE PRESCRIBED IN
10 WRITING BY A FALSE MEDICAID CLAIMS LAW INVESTIGATOR IDENTIFIED IN
11 THE DEMAND.

12 (II) THE PETITION SHALL SPECIFY EACH GROUND UPON WHICH THE
13 PETITIONER RELIES IN SEEKING RELIEF UNDER SUBPARAGRAPH (I) OF THIS
14 PARAGRAPH (b) AND MAY BE BASED UPON ANY FAILURE OF THE DEMAND
15 TO COMPLY WITH THE PROVISIONS OF THIS SECTION OR UPON ANY
16 CONSTITUTIONAL OR OTHER LEGAL RIGHT OR PRIVILEGE OF THE PERSON.
17 DURING THE PENDENCY OF THE PETITION IN THE COURT, THE COURT MAY
18 STAY, AS IT DEEMS PROPER, THE RUNNING OF THE TIME ALLOWED FOR
19 COMPLIANCE WITH THE DEMAND, IN WHOLE OR IN PART; EXCEPT THAT THE
20 PERSON FILING THE PETITION SHALL COMPLY WITH ANY PORTIONS OF THE
21 DEMAND NOT SOUGHT TO BE MODIFIED OR SET ASIDE.

22 (c) (I) IN THE CASE OF A CIVIL INVESTIGATIVE DEMAND ISSUED
23 UNDER SUBSECTION (1) OF THIS SECTION THAT IS AN EXPRESS DEMAND FOR
24 A PRODUCT OF DISCOVERY, THE PERSON FROM WHOM THE DISCOVERY WAS
25 OBTAINED MAY FILE A PETITION FOR AN ORDER OF THE COURT TO MODIFY
26 OR SET ASIDE THOSE PORTIONS OF THE DEMAND REQUIRING PRODUCTION
27 OF ANY PRODUCT OF DISCOVERY. THE PERSON SHALL FILE THE PETITION

1 IN THE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH THE
2 PROCEEDING IN WHICH THE DISCOVERY WAS OBTAINED IS OR WAS LAST
3 PENDING AND SHALL SERVE A COPY OF THE PETITION UPON THE FALSE
4 MEDICAID CLAIMS LAW INVESTIGATOR IDENTIFIED IN THE DEMAND AND
5 UPON THE RECIPIENT OF THE DEMAND. THE PERSON SHALL FILE A PETITION
6 UNDER THIS SUBPARAGRAPH (I):

7 (A) WITHIN TWENTY DAYS AFTER THE DATE OF SERVICE OF THE
8 CIVIL INVESTIGATIVE DEMAND OR AT ANY TIME BEFORE THE RETURN DATE
9 SPECIFIED IN THE DEMAND, WHICHEVER DATE IS EARLIER; OR

10 (B) WITHIN SUCH LONGER PERIOD AS MAY BE PRESCRIBED IN
11 WRITING BY THE FALSE MEDICAID CLAIMS LAW INVESTIGATOR IDENTIFIED
12 IN THE DEMAND.

13 (II) THE PETITION SHALL SPECIFY EACH GROUND UPON WHICH THE
14 PETITIONER RELIES IN SEEKING RELIEF UNDER SUBPARAGRAPH (I) OF THIS
15 PARAGRAPH (c), AND MAY BE BASED UPON ANY FAILURE OF THE PORTIONS
16 OF THE DEMAND FROM WHICH RELIEF IS SOUGHT TO COMPLY WITH THE
17 PROVISIONS OF THIS SECTION OR UPON ANY CONSTITUTIONAL OR OTHER
18 LEGAL RIGHT OR PRIVILEGE OF THE PETITIONER. DURING THE PENDENCY
19 OF THE PETITION, THE COURT MAY STAY, AS IT DEEMS PROPER,
20 COMPLIANCE WITH THE DEMAND AND THE RUNNING OF THE TIME ALLOWED
21 FOR COMPLIANCE WITH THE DEMAND.

22 (d) AT ANY TIME DURING WHICH A CUSTODIAN IS IN CUSTODY OR
23 CONTROL OF ANY DOCUMENTARY MATERIAL OR ANSWERS TO
24 INTERROGATORIES PRODUCED, OR TRANSCRIPTS OF ORAL TESTIMONY
25 GIVEN, BY A PERSON IN COMPLIANCE WITH A CIVIL INVESTIGATIVE
26 DEMAND ISSUED UNDER SUBSECTION (1) OF THIS SECTION, THE PERSON,
27 AND IN THE CASE OF AN EXPRESS DEMAND FOR ANY PRODUCT OF

1 DISCOVERY, THE PERSON FROM WHOM THE DISCOVERY WAS OBTAINED,
2 MAY FILE A PETITION FOR AN ORDER OF THE COURT TO REQUIRE THE
3 PERFORMANCE BY THE CUSTODIAN OF ANY DUTY IMPOSED UPON THE
4 CUSTODIAN BY THIS SECTION. THE PERSON SHALL FILE THE PETITION IN
5 THE DISTRICT COURT FOR THE JUDICIAL DISTRICT WITHIN WHICH THE
6 OFFICE OF THE CUSTODIAN IS SITUATED AND SHALL SERVE A COPY OF THE
7 PETITION UPON THE CUSTODIAN.

8 (e) WHENEVER A PETITION IS FILED IN A DISTRICT COURT UNDER
9 THIS SUBSECTION (10), THE COURT SHALL HAVE JURISDICTION TO HEAR
10 AND DETERMINE THE MATTER SO PRESENTED AND TO ENTER SUCH ORDER
11 OR ORDERS AS MAY BE REQUIRED TO CARRY OUT THE PROVISIONS OF THIS
12 SECTION. A FINAL ORDER SO ENTERED SHALL BE SUBJECT TO APPEAL
13 UNDER SECTION 13-4-102, C.R.S. ANY DISOBEDIENCE OF A FINAL ORDER
14 ENTERED BY A COURT UNDER THIS SECTION SHALL BE PUNISHED AS A
15 CONTEMPT OF THE COURT.

16 (f) THE COLORADO RULES OF CIVIL PROCEDURE SHALL APPLY TO
17 A PETITION UNDER THIS SUBSECTION (10) TO THE EXTENT THAT THE RULES
18 ARE CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

19 (11) **Disclosure exemption.** ANY DOCUMENTARY MATERIAL,
20 ANSWERS TO WRITTEN INTERROGATORIES, OR ORAL TESTIMONY PROVIDED
21 UNDER A CIVIL INVESTIGATIVE DEMAND ISSUED UNDER SUBSECTION (1) OF
22 THIS SECTION SHALL BE EXEMPT FROM DISCLOSURE UNDER SECTION
23 24-72-203, C.R.S.

24 (12) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
25 OTHERWISE REQUIRES:

26 (a) "CUSTODIAN" MEANS THE CUSTODIAN, OR ANY DEPUTY
27 CUSTODIAN, DESIGNATED BY THE ATTORNEY GENERAL UNDER PARAGRAPH

1 (a) OF SUBSECTION (9) OF THIS SECTION.

2 (b) "DOCUMENTARY MATERIAL" MEANS THE ORIGINAL OR A COPY
3 OF A BOOK, RECORD, REPORT, MEMORANDUM, PAPER, COMMUNICATION,
4 TABULATION, CHART, OR OTHER DOCUMENT, OR DATA COMPILATIONS
5 STORED IN OR ACCESSIBLE THROUGH COMPUTER OR OTHER INFORMATION
6 RETRIEVAL SYSTEMS, TOGETHER WITH INSTRUCTIONS AND ALL OTHER
7 MATERIALS NECESSARY TO USE OR INTERPRET THE DATA COMPILATIONS,
8 AND ANY PRODUCT OF DISCOVERY.

9 (c) "FALSE MEDICAID CLAIMS LAW" MEANS:

10 (I) THIS SECTION AND SECTIONS 25.5-4-303.5 TO 25.5-4-308; AND

11 (II) ANY LAW ENACTED BEFORE, ON, OR AFTER THE EFFECTIVE
12 DATE OF THIS SECTION THAT PROHIBITS OR MAKES AVAILABLE TO THE
13 STATE IN A COURT OF THE STATE A CIVIL REMEDY WITH RESPECT TO A
14 FALSE MEDICAID CLAIM AGAINST, BRIBERY OF, OR CORRUPTION OF AN
15 OFFICER OR EMPLOYEE OF THE STATE.

16 (d) "FALSE MEDICAID CLAIMS LAW INVESTIGATION" MEANS AN
17 INQUIRY CONDUCTED BY A FALSE MEDICAID CLAIMS LAW INVESTIGATOR
18 FOR THE PURPOSE OF ASCERTAINING WHETHER A PERSON IS OR HAS BEEN
19 ENGAGED IN A VIOLATION OF A FALSE MEDICAID CLAIMS LAW.

20 (e) "FALSE MEDICAID CLAIMS LAW INVESTIGATOR" MEANS AN
21 ATTORNEY OR INVESTIGATOR EMPLOYED BY THE DEPARTMENT OF LAW
22 WHO IS CHARGED WITH THE DUTY OF ENFORCING OR CARRYING INTO
23 EFFECT A FALSE MEDICAID CLAIMS LAW OR AN OFFICER OR EMPLOYEE OF
24 THE STATE ACTING UNDER THE DIRECTION AND SUPERVISION OF THE
25 ATTORNEY OR INVESTIGATOR IN CONNECTION WITH A FALSE MEDICAID
26 CLAIMS LAW INVESTIGATION.

27 (f) "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP,

1 CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY.

2 (g) "PRODUCT OF DISCOVERY" MEANS:

3 (I) THE ORIGINAL OR DUPLICATE OF A DEPOSITION,
4 INTERROGATORY, DOCUMENT, THING, RESULT OF THE INSPECTION OF LAND
5 OR OTHER PROPERTY, EXAMINATION, OR ADMISSION, ANY ONE OF WHICH
6 IS OBTAINED BY A METHOD OF DISCOVERY IN A JUDICIAL OR
7 ADMINISTRATIVE PROCEEDING OF AN ADVERSARIAL NATURE;

8 (II) A DIGEST, ANALYSIS, SELECTION, COMPILATION, OR
9 DERIVATION OF AN ITEM LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
10 (g); AND

11 (III) AN INDEX OR OTHER MANNER OF ACCESS TO AN ITEM LISTED
12 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g).

13 **25.5-4-310. Medicaid false claims report.** (1) ON OR BEFORE
14 JANUARY 15, 2012, AND ON OR BEFORE EACH JANUARY 15 THEREAFTER,
15 THE ATTORNEY GENERAL SHALL SUBMIT A WRITTEN REPORT TO THE
16 HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND THE
17 HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AND TO
18 THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY A REPORT
19 CONCERNING CLAIMS BROUGHT UNDER THE "COLORADO MEDICAID FALSE
20 CLAIMS ACT" DURING THE PREVIOUS FISCAL YEAR. THE REPORT SHALL
21 INCLUDE, BUT NOT BE LIMITED TO:

22 (a) THE NUMBER OF ACTIONS FILED BY THE ATTORNEY GENERAL;

23 (b) THE NUMBER OF ACTIONS FILED BY THE ATTORNEY GENERAL
24 THAT WERE COMPLETED;

25 (c) THE AMOUNT THAT WAS RECOVERED IN ACTIONS FILED BY THE
26 ATTORNEY GENERAL THROUGH SETTLEMENT OR THROUGH A JUDGMENT
27 AND, IF KNOWN, THE AMOUNT RECOVERED FOR DAMAGES, PENALTIES, AND

1 LITIGATION COSTS;

2 (d) THE NUMBER OF ACTIONS FILED BY A PERSON OTHER THAN THE
3 ATTORNEY GENERAL;

4 (e) THE NUMBER OF ACTIONS FILED BY A PERSON OTHER THAN THE
5 ATTORNEY GENERAL THAT WERE COMPLETED;

6 (f) THE AMOUNT THAT WAS RECOVERED IN ACTIONS FILED BY A
7 PERSON OTHER THAN THE ATTORNEY GENERAL THROUGH SETTLEMENT OR
8 THROUGH A JUDGMENT AND, IF KNOWN, THE AMOUNT RECOVERED FOR
9 DAMAGES, PENALTIES, AND LITIGATION COSTS, AND THE AMOUNT
10 RECOVERED BY THE STATE AND THE PERSON; AND

11 (g) THE AMOUNT EXPENDED BY THE STATE FOR INVESTIGATION,
12 LITIGATION, AND ALL OTHER COSTS FOR CLAIMS RELATED TO THE
13 "COLORADO MEDICAID FALSE CLAIMS ACT".

14 **SECTION 14. Accountability.** Five years after this act becomes
15 law and in accordance with section 2-2-1201, Colorado Revised Statutes,
16 the legislative service agencies of the Colorado General Assembly shall
17 conduct a post-enactment review of the implementation of this act
18 utilizing the information contained in the legislative declaration set forth
19 in section 1 of this act.

20 **SECTION 15. Appropriation - adjustments to the 2010 long**
21 **bill.** (1) For the implementation of this act, appropriations made in the
22 annual general appropriation act for the fiscal year beginning July 1,
23 2010, to the department of health care policy and financing shall be
24 adjusted as follows:

25 (a) The appropriation to the executive director's office is increased
26 by one million three hundred twenty-eight thousand three hundred
27 sixty-one dollars (\$1,328,361) and 7.0 FTE. Of said sum, five hundred

1 three thousand seven hundred five dollars (\$503,705) shall be from the
2 general fund and eight hundred twenty-four thousand six hundred
3 fifty-six dollars (\$824,656) shall be from federal funds.

4 (b) The appropriation to the medical services premiums division
5 is decreased by two million three hundred ninety thousand five hundred
6 seventy dollars (\$2,390,570). Of said sum, nine hundred eighteen
7 thousand two hundred eighteen dollars (\$918,218) shall be from the
8 general fund and one million four hundred seventy-two thousand three
9 hundred fifty-two dollars (\$1,472,352) shall be from federal funds.

10 **SECTION 16. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.