§ 32. Functions, duties and responsibilities. The inspector shall have the following functions, duties and responsibilities:

1. to appoint such deputies, directors, assistants and other officers and employees as may be needed for the performance of his or her duties and may prescribe their duties and fix their compensation within the amounts appropriated therefor;

2. to conduct and supervise activities to prevent, detect and investigate medical assistance program fraud and abuse amongst the following: the department; the offices of mental health, alcoholism and substance abuse services, temporary disability assistance, and children and family services and the office for people with developmental disabilities;

3. to coordinate, to the greatest extent possible, activities to prevent, detect and investigate medical assistance program fraud and abuse amongst the following: the department; the offices of mental health, alcoholism and substance abuse services, temporary disability assistance, and children and family services and the office for people with developmental disabilities; the commission on quality of care and advocacy for persons with disabilities; the department of education; the fiscal agent employed to operate the medical assistance information and payment system; local governments and entities; and to work in a coordinated and cooperative manner with, to the greatest extent possible, the deputy attorney general for Medicaid fraud control; the welfare inspector general, federal prosecutors, district attorneys within the state, the special investigative unit maintained by each health insurer operating within the state, and the state comptroller;

4. to solicit, receive and investigate complaints related to fraud and abuse within the medical assistance program;

5. to keep the governor, attorney general, state comptroller, temporary president and minority leader of the senate, the speaker and the minority leader of the assembly, and the heads of agencies with responsibility for the administration of the medical assistance program

apprised of efforts to prevent, detect, investigate, and prosecute fraud and abuse within the medical assistance program, and to provide a quarterly briefing to the legislature on activities of the office;

6. to pursue civil and administrative enforcement actions against any individual or entity that engages in fraud, abuse, or illegal or improper acts or unacceptable practices perpetrated within the medical assistance program, including but not limited to: (a) referral of information and evidence to regulatory agencies and licensure boards; (b) withholding payment of medical assistance funds in accordance with state and federal laws and regulations; (c) imposition of administrative sanctions and penalties in accordance with state and federal laws and regulations; (d) exclusion of providers, vendors and contractors from participation in the program; (e) initiating and maintaining actions for civil recovery and, where authorized by law, seizure of property or other assets connected with improper payments; and entering into civil settlements; and (f) recovery of improperly expended medical assistance program funds from those who engage in fraud or abuse, or illegal or improper acts perpetrated within the medical assistance program. In the pursuit of such civil and administrative enforcement actions under this subdivision, the inspector shall consider the quality and availability of medical care and services and the best interest of both the medical assistance program and recipients;

6-a. to post on the department's internet website, within reasonably prompt fashion, all final administrative determinations issued by administrative law judges in connection with any actions taken by the office pursuant to this title;

7. to make information and evidence relating to suspected criminal acts which he or she may obtain in carrying out his or her duties available to appropriate law enforcement officials and to consult with the deputy attorney general for Medicaid fraud control, the welfare inspector general, and other state and federal law enforcement officials for coordination of criminal investigations and prosecutions.

The inspector shall refer suspected fraud or criminality to the deputy

attorney general for Medicaid fraud control and make any other referrals to such deputy attorney general as required or contemplated by federal law. At any time after such referral, with ten days written notice to the deputy attorney general for Medicaid fraud control or such shorter time as such deputy attorney general consents to, the inspector may additionally provide relevant information about suspected fraud or criminality to any other federal or state law enforcement agency that the inspector deems appropriate under the circumstances;

8. to subpoena and enforce the attendance of witnesses, administer oaths or affirmations, examine witnesses under oath, and take testimony;

9. to require and compel the production of such books, papers, records and documents as he or she may deem to be relevant or material to an investigation, examination or review undertaken pursuant to this section;

10. to examine and copy or remove documents or records of any kind related to the medical assistance program or necessary for the inspector to perform its duties and responsibilities that are prepared, maintained or held by or available to any state agency or local governmental entity the patients or clients of which are served by the medical assistance program, or which is otherwise responsible for the control of fraud and abuse within the medical assistance program; provided, however, that any such information be afforded confidentiality protection as provided for under state and federal law. The removal of records shall be limited to those circumstances in which a copy thereof is insufficient for an appropriate legal or investigative purpose, provided that in such instances the copying and return of such original, or copy where the original is required for an appropriate legal or investigative purpose, is expedited and such original or copy is readily accessible in accordance with the care and treatment needs of the patient,

11. to recommend and implement policies relating to the prevention and detection of fraud and abuse; provided however, that the consent of the attorney general shall be obtained prior to the implementation of any policy that shall affect the operations of the office of the attorney

general;

12. to monitor the implementation of any recommendations made by the office to agencies or other entities with responsibility for administration of the medical assistance program;

13. to prepare cases, provide testimony and support administrative hearings and other legal proceedings;

14. to review and audit contracts, cost reports, claims, bills and all other expenditures of medical assistance program funds to determine compliance with applicable federal and state laws and regulations and take such actions as are authorized by federal or state laws and regulations;

15. to work with the fiscal agent employed to operate the Medicaid management information system to optimize the system;

16. to work in a coordinated manner with relevant agencies in the implementation of information technology relating to the prevention and identification of fraud and abuse in the medical assistance program, including the surveillance utilization review system and other automated systems pursuant to paragraph (b) of subdivision eight of section three hundred sixty-seven-b of the social services law;

17. to conduct educational programs for medical assistance program providers, vendors, contractors and recipients designed to limit fraud and abuse within the medical assistance program;

18. to, in conjunction with the commissioner, develop protocols to facilitate the efficient self-disclosure and collection of overpayments and monitor such collections, including those that are self-disclosed by providers. The provider's good faith self-disclosure of overpayments may be considered as a mitigating factor in the determination of an administrative enforcement action;

19. to receive and to investigate complaints of alleged failures of

state and local officials to prevent, detect and prosecute fraud and abuse in the medical assistance program;

20. to, consistent with provisions of this title, implement and amend, as needed, rules and regulations relating to the prevention, detection, investigation and referral of fraud and abuse within the medical assistance program and the recovery of improperly expended medical assistance program funds;

21. to conduct, in the context of the investigation of fraud and abuse, on-site facility and office inspections;

22. to take appropriate actions to ensure that the medical assistance program is the payor of last resort;

23. to annually submit a budget request, for the ensuing state fiscal year, to the division of the budget, provided that the office's budget request shall not be subject to review, alteration or modification by the commissioner or any other entity or person prior to its submission to the division of the budget;

24. to meet quarterly with representatives of social services districts to discuss the status of ongoing cooperative efforts between the office of Medicaid inspector general and districts, including demonstration programs authorized pursuant to section five-a of part C of chapter fifty-eight of the laws of two thousand five, the potential for additional collaboration and/or for improved or innovative techniques to be employed, and any issues of concern to such districts with respect to the prevention and detection of fraud and abuse in the medical assistance program;

25. to request submission of social services districts annual budget and audit workplans for purposes of planning for and executing the county demonstration program and for the creation of the office's annual workplan and to include in the office's annual workplan a description of activities that will be conducted in collaboration with social services districts;

26. to develop training materials with respect to the office's audit standards and criteria for identifying fraud or waste, for use by social services districts who are engaged with the office in demonstration programs or other collaborative efforts; and

27. to perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of the office in accordance with federal and state law.