Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	109.95	1.00	0.00	110.95	1.00	0.00	110.95	110.95
Personal Services	5,249,065	689,612	0	5,938,677	713,993	0	5,963,058	11,901,735
Operating Expenses	1,529,230	179,099	0	1,708,329	190,765	0	1,719,995	3,428,324
Equipment	7,645	0	0	7,645	0	0	7,645	15,290
Grants	539,697	0	0	539,697	0	0	539,697	1,079,394
Total Costs	**$7,325,637**	**$868,711**	**$0**	**$8,194,348**	**$904,758**	**$0**	**$8,230,395**	**$16,424,743**
General Fund	1,980,699	373,463	0	2,354,162	387,103	0	2,367,802	4,721,964
State/Other Special	134,137	56,877	0	191,014	57,388	0	191,525	382,539
Federal Special	5,210,801	438,371	0	5,649,172	460,267	0	5,671,068	11,320,240
Total Funds	**$7,325,637**	**$868,711**	**$0**	**$8,194,348**	**$904,758**	**$0**	**$8,230,395**	**$16,424,743**

Program Description

The role of the Quality Assurance Division (QAD) is to protect the safety and well-being of Montanans by monitoring and ensuring the integrity and cost-effectiveness of programs administered by the department. The division fulfills this roll by providing comprehensive services that:

1. Protect the safety of clients that utilize Montana's health care, day care, and residential providers through licensure of 2,178 facilities. Of these facilities, 296 are certified by the division for participation in the Medicare and Medicaid programs;
2. Detect and investigate abusive or fraudulent practices affecting the Medicaid, TANF and Food Stamp programs and initiate recovery efforts;
3. Reduce Medicaid costs by identifying other insurers or parties responsible for paying a client's medical expenses;
4. Provide both internal and external independent audits for DPHHS programs;
5. Provide independent fair hearings for clients and providers participating in DPHHS programs;
6. Monitor and evaluate health maintenance organizations for quality assurance and network adequacy;
7. Maintain a Certified Nurse Aide Registry;
8. Approve and monitor nurse aide training programs;
9. Operate the Certificate of Need (CON) Program; and
10. Operate the internal HIPAA function for the department.

The division has field offices in Anaconda, Billings, Bozeman, Great Falls, Havre, Hinsdale, Kalispell, Livingston, Miles City, and Missoula.

Statutory authority: 42 U.S.C. 1818 and 42 U.S.C 1919; 45 U.S.C.; Title 50, Chapter 5, parts 1 and 2; Title 50, Chapter 5, part 11; Title 52, Chapter 2, part 7; and Title 53, Chapter 2, section 501, MCA; CFR 21, CFR 49, CFR 10; P.L. 102-359 (10-27-92).

Program Highlights

Quality Assurance Division
Major Budget Highlights

- Present law increases are dominated by statewide adjustments
- Increased estate and lien recovery costs add about $365,000 over the biennium
- The executive proposes a funding shift from federal funds to general fund due to a change in reimbursements

Major LFD Issues

- Executive proposal does not include administrative costs for PERM
- Vacant positions impact division ability to maximize reductions in inappropriate Medicaid payments
- Increased costs for lien and estate recovery may not continue past the 2009 biennium

Program Narrative

In the 2007 biennium, the legislature approved about $0.6 million to implement the new Medicaid Payment Error Program (PERM), including funds for 8.00 FTE to perform retrospective reviews of Medicaid eligibility and medical necessity of services. The program was anticipated to be self-supporting through the savings generated by the reviews.

In 2002, Congress passed the Improper Payments Information Act. During the 2005 Legislature, Centers for Medicare and Medicaid Services (CMS) indicated it would implement PERM by requiring each state to estimate improper payments in Medicaid and the Children's Health Insurance Program (CHIP). Additional funding was appropriated by the legislature so QAD would be able to annually review a sample of Medicaid and CHIP payments, focusing on eligibility and medical necessity for services, determining the error rate, and recovery of improper payments.

Due to nationwide concerns with the requirements of testing for errors at the state level, CMS changed the methodology for PERM. CMS hired three national contractors to conduct PERM testing and developed a testing schedule whereby each state has a test conducted within a three year period beginning in FFY 2006. Montana's testing will be conducted in FFY 2008. According to the second PERM Interim Final Rule, filed by CMS in August 2006, the production cycle for completing these reviews will take approximately 23 months so that the review would begin in October 1, 2007 and would be completed by August 30, 2009.

As a result of the change in the methodology for completing the PERM process, QAD did not expend any of the restricted appropriation relating to PERM. The legislature had appropriated about $0.3 million general fund and a like amount of federal revenues as a one-time-only appropriation over the biennium for the program.

The 2005 Legislature accepted the executive estimate of overpayment recoveries which would be generated through the PERM process. The executive estimated a recovery rate of 0.15 percent on total Medicaid expenditures of $715 million in FY 2006 and $751 million in FY 2007. Estimated savings were $0.3 million in FY 2006 for program start-up and $1.0 million in FY 2007. Due to the changes CMS implemented for the PERM program, the executive did not achieve the anticipated savings.

LFD ISSUE

QAD Budget Request Does Not Include Costs for PERM

The 2009 biennium budget request for QAD does not include additional costs associated with the administration of PERM testing over the biennium. LFD discussed the issue with QAD staff during analysis of the budget request. Staff are formulating an outline of the issues and costs. The executive may submit a budget amendment to the executive budget request related to these costs for consideration by the 2007 Legislature.

LFD ISSUE

Vacant Positions in SURS Unit Affect Recovery of Medicaid Funds

During FY 2006 the division experienced an overall 10.1 percent vacancy savings rate. Figure 45 illustrates the total FTE hours authorized in FY 2006 for each bureau within the division and the actual hours used.

As shown, the bureau with the highest vacancy rate is the Program Compliance Bureau, which operates the Surveillance and Utilization Review Subsystem Unit (SURS), the Third Party Liability (TPL) Unit and the Program Compliance Unit (PCU). Examination of the vacancies within the bureau shows that the vacancy rate for PCU was 11.8 percent, SURS 26.6 percent, and TPL 5.8 percent.

Figure 45
Vacancy Rates By Bureau
FY 2006

	Authorized FTE Hours	Actual Hours Used	
Administration	8,352	7,807	6.5%
Program Compliance	64,728	54,159	16.3%
Audit	16,704	14,553	12.9%
Facilty Certification & Survey	64,728	56,344	13.0%
Fair Hearings	12,528	12,520	0.1%
Certification & Licensure	62,536	60,959	2.5%
Total	229,576	206,342	10.1%

SURS is a federally mandated function to detect and investigate aberrant billing practices which may indicate fraudulent billing by providers in Medicaid and to conduct prior authorizations for various Medicaid services. Prior authorizations are completed for certain Medicaid services to determine if less costly alternatives are available or if the service is medically necessary.

According to the SURS website between 7 and 14 percent of health-care reimbursements are improperly made. In FY 2006, the Montana Medicaid Program cost $730.8 million. Using the SURS estimate between $51.2 million and $102.3 million of Medicaid costs may have been improperly paid. In FY 2006 SURS recovered 557,656 in Medicaid improper payments to providers or less than 1 percent of Medicaid payments in FY 2006. The ability of SURS to identify improper payments depends in part on qualified staff's ability to identify aberrant billing practices through computerized inquiries. If the SURS unit was able to hire and retain the staff the legislature funded the percentage of improper payment recovery may increase.

Retention and recruitment issues generally result from two considerations for the employee – the salary and/or internal factors relating to job quality of the position. According to division staff many of the SURS positions utilize nursing degrees. These positions have significant turnover due to salary constraints and uncompetitive wages.

One of the main responsibilities of nursing staff in SURS is to perform prior authorization review. The division is exploring the use of contractors to provide prior authorization reviews for SURS. The division would need to determine the cost benefit of hiring staff versus the costs of contracting for the services.

The unresolved vacancy rates within the Program Compliance Bureau impact the ability of the bureau to reduce Medicaid costs from improper billing and to process prior authorizations of Medicaid services. If the legislature wishes to address the vacancy rate within the bureau they might consider:

- Discussing recruitment and retention strategies with the division and the means for determining effectiveness
- Request SURS determine the cost effectiveness of contracting for prior authorizations and means of determining effectiveness

New Initiative Update

The 2005 Legislature added $31,000 in state special revenue over the biennium to fund administration of the Medical Marijuana Act, implemented through voter initiative in November 2004 (I-148). In FY 2006, QAD expended $11,560 for the program, processed 324 applications for medical marijuana registry identification cards and approved 252 of the applications.

The PERM implementation is discussed above.

Biennial Comparison

The Quality Assurance Division 2009 biennium request is $500,000 lower in total funds than the 2007 biennium expenditure budget. The 2009 biennium budget request did not include $0.3 million for PERM testing which was included in the 2007 biennium request as a restricted one-time-only appropriation. QAD FTE numbers declined by 8.00 FTE, this is due to the elimination of the PERM project.

Personal services increase slightly as compared to the 2007 biennium. However, as discussed above almost $300,000, the majority of which were personal services, was not requested for PERM. Without this reduction, personal services would have increased 2.5 percent. Operating expenses declined due to:

- $569,697 annually in Rural Hospital Flexibility Program costs reclassified to grants
- About $300,000 for the contract for lien and estate recoveries eliminated and the workload transferred to existing FTE. The FY 2006 costs for the lien and estate recovery program was $27,032.

Figure 46
2007 Biennium Compared to 2009 Biennium
Quality Assurance Divison

Budget Item/Fund	2007 Biennium	2009 Biennium	Percent of Total	Change	Percetn Incr/Decr
FTE	117.96	110.95			
Personal Services	11,853,984	11,901,735	72%	47,751	0.40%
Operating Expenses	4,497,324	3,428,324	21%	(1,069,000)	-23.77%
Equipment	17,518	15,290	0%	(2,228)	-12.72%
Grants	583,326	1,079,394	7%	496,068	85.04%
Total Costs	$16,952,152	$16,424,743	100%	($527,409)	-3.11%
General Fund	4,597,962	4,721,964	29%	124,002	2.70%
State Special	549,588	382,539	2%	(167,049)	-30.40%
Federal Special	11,804,602	11,320,240	69%	(484,362)	-4.10%
Total Funds	$16,952,152	$16,424,743	100%	($527,409)	-3.11%

General fund increases 3 percent due to a funding shift relating to federal reimbursement declining from 75 percent to 50 percent for the Third Party Liability (TPL) Section and reduction of state special revenues for lien and estate recovery costs with the elimination of the contract. Federal funds decrease by 4 percent over the period due to elimination of appropriation for PERM and the reduction for TPL. State special revenues decline 30 percent from the budgeted amounts reflected in the 2007 biennium due to elimination of $171,755 in lien and estate collections to support the Program Compliance Bureau operations.

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the Governor.

Program Funding Table
Quality Assurance Divisi

Program Funding		Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000	Total General Fund	$1,980,699	27.0%	$2,354,162	28.7%	$2,367,802	28.8%
	01100 General Fund	1,980,699	27.0%	2,354,162	28.7%	2,367,802	28.8%
02000	Total State Special Funds	134,137	1.8%	191,014	2.3%	191,525	2.3%
	02034 Earmarked Alcohol Funds	60,178	0.8%	60,292	0.7%	60,696	0.7%
	02497 6901-Lien & Estate - Sltcd	27,032	0.4%	118,572	1.4%	118,572	1.4%
	02566 Medical Marijuana	11,560	0.2%	12,150	0.1%	12,257	0.1%
03000	Total Federal Special Funds	5,210,801	71.1%	5,649,172	68.9%	5,671,068	68.9%
	03096 Discretionary Child Care	533,840	7.3%	543,860	6.6%	544,813	6.6%
	03251 Child Care Admin	144,981	2.0%	146,817	1.8%	147,005	1.8%
	03303 Title 18 Clia	71,285	1.0%	73,860	0.9%	74,495	0.9%
	03335 Fda Mammography Inspections	49,420	0.7%	49,420	0.6%	49,420	0.6%
	03530 6901-Foster Care 93.658	87,985	1.2%	87,370	1.1%	88,327	1.1%
	03580 6901-93.778 - Med Adm 50%	719,827	9.8%	860,279	10.5%	862,032	10.5%
	03597 03 Indirect Activity Prog 08	1,208,114	16.5%	1,292,177	15.8%	1,299,303	15.8%
	03934 Title 19	540,208	7.4%	660,582	8.1%	664,086	8.1%
	03935 Title 18	1,279,369	17.5%	1,352,453	16.5%	1,358,992	16.5%
	03948 T-19 Obra Nurse Aid	30,680	0.4%	37,165	0.5%	37,391	0.5%
	03960 Rural Hospital Flexibilty Prog	545,092	7.4%	545,189	6.7%	545,204	6.6%
Grand	Total	$7,325,637	100.0%	$8,194,348	100.0%	$8,230,395	100.0%

The Quality Assurance Division is funded primarily with federal funds (69 percent of the 2009 biennium appropriations). General fund supports about 29 percent of program costs with the remaining 2 percent of budgeted expenditures are supported by state special revenue.

General fund supports a portion of the administrative functions, the state match for Medicaid and Title IV-E (foster care) eligible costs, a portion of child care licensure, and the full cost of radiological equipment testing.

State special revenue includes alcohol taxes allocated to DPHHS, lien and estate recoveries for Medicaid services, medical marijuana registry fees, and indirect cost recovery funds. Alcohol taxes fund staff and contracted services for chemical dependency program licensure. Lien and estate funds pay for services to pursue recoveries for the costs of Medicaid, mainly for nursing home services. Medical marijuana registry fees cover the cost of administering the registry.

There are 11 separate federal funding sources in the Quality Assurance Division budget request. Some federal sources support more than one function. For instance, Medicaid funds support: 1) third party (Medicare, insurance, and private pay) recovery; 2) the surveillance, utilization, and review unit; 3) the nurse aide registry for nursing homes; and 4) the Department of Justice fraud surveillance contract. Medicaid and Medicare funds support certification of services such as nursing home and home health services. Medicare CLIA (clinical laboratory improvement amendments) pays for reviews of some laboratories in order to qualify the labs for federal funding. The rural hospital flexibility grant supports grants and other activities for local hospitals to maintain critical access hospital status. Childcare discretionary and administrative funding supports licensure of childcare facilities. Title IV-E pays the federal share of costs of licensing community residential facilities. Mammography funds pay for inspections of mammography equipment. Federal indirect funding represents the federal share of allocated administrative costs, such as those for fair hearings and administrative costs.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					900,131					925,491
Vacancy Savings					(245,971)					(246,982)
Inflation/Deflation					22,252					23,459
Fixed Costs					(20,471)					(19,863)
Total Statewide Present Law Adjustments					**$655,941**					**$682,105**
DP 80002 - QAD Rent Increase	0.00	12,330	222	21,534	34,086	0.00	15,472	318	28,179	43,969
DP 80007 - Leased Vehicles (2) For Field Staff	0.00	(2,984)	0	(1,412)	(4,396)	0.00	(2,984)	0	(1,412)	(4,396)
DP 80008 - Additional Lien and Estate Recovery Costs	0.00	0	91,540	91,540	183,080	0.00	0	91,540	91,540	183,080
DP 80009 - Child Care Licensing Increase 1 FTE	1.00	0	0	0	0	1.00	0	0	0	0
DP 80010 - TPL Funding Adjustment	0.00	58,231	0	(58,231)	0	0.00	58,340	0	(58,340)	0
Total Other Present Law Adjustments	**1.00**	**$67,577**	**$91,762**	**$53,431**	**$212,770**	**1.00**	**$70,828**	**$91,858**	**$59,967**	**$222,653**
Grand Total All Present Law Adjustments					**$868,711**					**$904,758**

LFD COMMENT

Annual statewide present law adjustments for personal services increase 17 percent above the personal services FY 2006 base. $325,000 of the annual increase is attributable to annualization of the pay plan increases approved by the 2005 Legislature. About $326,000 of the increase is to restore funding for base year vacancies. The remaining $250,000 for funding salary or pay grade adjustments not funded in the pay plan and increased costs for employee benefits.

DP 80002 - QAD Rent Increase - This request is for rent increases. Rent for the division is increasing between 2-3 percent per year. In addition, department staff will be moving into a new building in Kalispell in FY 2008 which has an increase in the rental prices associated with it.

DP 80007 - Leased Vehicles (2) For Field Staff - This request is for a reduction each year of the biennium to lease two motor pool cars. QAD has three staff in Missoula and two staff in Great Falls driving their own cars. The reductions reflect the cost savings to the division from leasing motor pool cars rather than reimbursing the employees for the costs of driving their own cars.

DP 80008 - Additional Lien and Estate Recovery Costs - This request is for $183,080 in state special revenue funds in each year of the FY 2009 biennium for additional Lien and Estate recovery costs. The division estimates that as a result of these recovery efforts lien and estate state special revenue (SSR) collections will increase $253,840 in FY 2008 and $258,800 in FY 2009.

LFD ISSUE

Higher Costs May Not Continue Past the 2009 Biennium

The division cancelled the contract for a third party to pursue lien and estate recoveries and has been completing the recoveries in-house with current resources. In FY 2006 this change resulted in about $275,000 of savings for the program.

The division estimates revenues as the amount of the estimated property value less the associated costs for selling the property. The costs include real estate fees, closing costs, mortgage amount, and back taxes. The division estimates it could generate an average recovery of $20,000 per case or $800,000 per year. The division is required to return the federal share back to Centers for Medicare Medicaid Services (CMS), which represents approximately 68 percent of the net sales proceeds or $544,000. Additional net revenue of $70,760 in FY 2008 and $75,720 in FY 2009 would be put into the Senior and Long Term Care Division to offset the costs of providing the care.

When an estate goes into probate, statute allows the executor three years to close the estate. If probate extends beyond three years the executor can settle the case without paying the state the costs of care provided through Medicaid. When the division began to process lien cases in-house they determined 76 cases were outstanding longer than probate statutes allow. In these situations, the division can force the executor to close the case by requesting the court grant the division status as a special administrator or order the executor to close the case and settle with the state. The costs associated with closing these cases include legal services from the Department of Justice, repair and maintenance of the property to ready them for sale, back taxes, and insurance. The division is in the process of resolving the 76 outstanding cases. Costs related to the outstanding cases are higher than the majority of lien and estate cases due to increased legal costs associated with the probate process. The resolution period extends into the 2009 biennium due to the process and time required to sell the property.

As discussed above, the current backlog for these cases is 76. According to staff working with the program, about an additional 10 percent or 20 cases need to go through the probate process each year. QAD estimates include a continuing case load of 40 properties a year requiring settlement at an average cost of $4,577 per property. However, once the backlog is resolved, it appears only 20 cases a year may require settlement through the probate courts.

The legislature may wish to consider

- appropriating these funds as one-time-only appropriation to resolve the backlog or
- appropriating the full amount for the 2009 biennium and including language in a companion bill that continuing appropriation authority at this level would be conditioned on the outstanding number of cases estimated for future biennia.

DP 80009 - Child Care Licensing Increase 1 FTE - The executive requests converting 1.00 modified FTE to a permanent position for each year of the biennium to provide administrative and technical support for the Child Care Licensing Program.

LFD COMMENT	This request is for a federally funded position which would be on-going over the foreseeable future.

DP 80010 - TPL Funding Adjustment - This package adjusts the funding in the TPL Unit. It was originally funded at 25 percent general fund and 75 percent federal funds. It is now a 50 percent general fund program. This decision package requests $58,231 in general fund with a reduction of equal amount in federal funds for FY 2008 and $58,340 in general fund with a reduction of equal amount in federal funds for FY 2009.