Deficit Reduction Act of 2005 (DRA) - Employee Education about False Claims Recovery

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DRA Compliance Statement

Section 6032 of the Deficit Reduction Act of 2005 (DRA), effective January 1, 2007, requires all entities that receive $5 million or more in annual Medicaid payments to establish written policies that provide detailed information about the Federal False Claims Act, the administrative remedies for false claims and statements, *applicable state laws* that provide civil or criminal penalties for making false claims and statements, the "whistleblower" protections afforded under such laws and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs. Entities shall establish these written policies for all employees (including management), and for any contractor or agent of the entity.

According to CMS, "an entity includes organizational units (a governmental agency, organization, unit, corporation, partnership, or other business arrangement) and individuals, as long as the organizational unit or individual receives or makes payments totaling at least $5 million annually under a Title XIX State Plan, State Plan waiver, or Title XIX demonstration. It is the responsibility of each entity to establish and disseminate written policies which must also be adopted by its contractors or agents. Written policies may be on paper or in electronic form, but must be readily available to all employees, contractors, or agents. For purposes of determining whether an individual or organization must comply with section 6032 as an entity or as a contractor:

a) if a provider is directly paid $5 million in a Federal fiscal year from the State Medicaid Agency, the provider would qualify as an entity, and must comply as such, regardless of whether the provider also contracts with a Medicaid Managed Care Organization (MCO); or

b) if a provider contracts with a Medicaid MCO that has met the $5 million threshold, but the provider itself receives less than $5 million annually directly from the State Medicaid Agency, then the provider must comply as a contractor of the Medicaid MCO, regardless of the amount it is paid by the Medicaid MCO for Medicaid patients."

When Magellan is considered the entity under the DRA, Magellan is required to establish and to disseminate these policies to its employees, contractors, agents or other persons who furnish, or otherwise authorize the furnishing of, health care items or services; perform billing or coding functions; or are involved in the monitoring of health care services provided by Magellan. According to CMS, "for purposes of section 6032 compliance, an entity's contractors and agents, including independent contractors, must abide by the entity's policies to the extent applicable."

Failure to comply may disqualify contractors, agents or other persons from receiving reimbursement for the period of non-compliance. Knowing non-compliance may violate the Federal False Claims Act as well as disqualify contractors from participation in federal health care programs.

Magellan's Compliance Activities

Magellan is committed to its role in preventing and detecting health care fraud and abuse and complying with applicable federal and state laws. As a part of this effort, Magellan has a comprehensive compliance program to ensure compliance with the DRA including the following:

1. A *Medicaid Program Integrity & Compliance Program* policy that outlines Magellan's comprehensive compliance program for the detection and prevention of fraud, waste and abuse in the Medicaid program. To review the policy, please select the following link: *Medicaid Program Integrity & Compliance Program policy*.
2. A *False Claims and Whistleblower Protection policy* that includes a summary of the Federal False Claims Act, federal whistleblower protections and the federal administrative remedies for Federal False Claims. To review the policy, please select the following link: *False Claims and Whistleblower Protection policy*.
3. A Code of Conduct that includes information on Magellan's Fraud and Abuse program. All Magellan employees must complete an annual training on Magellan's Code of Conduct. This training includes information on the Federal False Claims Act, applicable state false claims laws including civil or criminal penalties for making false claims and statements, the "whistleblower" protections afforded under such laws and the role of such laws in preventing and detecting fraud, waste and abuse. To review the Code of Conduct, please select the following link: *Code of Conduct*.
4. A summary of the State False Claims Laws that identify state civil and criminal penalties for false claims and statements along with the whistleblower protections afforded under such laws. To review the summary, please select the following link: *State False Claims Laws*.

Copies of our *False Claims and Whistleblower Protection policy, Medicaid Program Integrity & Compliance Program policy, State False Claims Laws summary and Code of Conduct Handbook* are also available upon request by contacting the Compliance Hotline at **(800) 915-2108** or e-mailing us at *compliance@magellanhealth.com*.

Additional information about the education requirement (Section 6032) of the Deficit Reduction Act of 2005 is available online at the Centers for Medicare and Medicaid Services (CMS) web site. We provided a few links below.

- CMS - Final Guidance Regarding Employee Education for False Claims Recovery (03/22/2007):
  - *http://www.cms.gov/smdl/downloads/SMD032207.pdf*
  - *http://www.cms.gov/smdl/downloads/SMD032207Att1.pdf*
  - *http://www.cms.gov/smdl/downloads/SMD032207Att2.pdf*
- CMS - Employee Education About False Claims Recovery (12/13/2006):
  - *http://www.cms.gov/smdl/downloads/SMD121306.pdf*

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How To Report Fraud, Waste, and/or Abuse

Magellan, its employees, contractors, agents, and providers are required to cooperate fully with state and federal oversight and prosecutorial agencies. There are several options available to you for reporting fraud, waste, overpayments, and/or abuse.

1. **Magellan**
   - To report fraud, waste and/or abuse, contact the SIU Department at 800-755-0850 or at *SIU@magellanhealth.com*.
   - You may also contact Magellan's Compliance Hotline at **1-800-915-2108**, 24 hours per day/seven days a week. You may choose to remain anonymous when calling. Or contact us via email at *Compliance@magellanhealth.com*
     - ***http://magellanhealth.com/mh/about/compliance/reporting-fraud.aspx***

2. **State Regulatory Agency**
   - **You can report directly to the State Medicaid Agency or to other designated state regulatory agencies with oversight over Medicaid fraud, waste, and/or abuse. The state-specific contact information for reporting fraud, waste, and/or abuse is available below.**

State	Additional Information About The Fraud & Abuse Reporting Process
CA	**https://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx#:~:text=%E2%80%8B%E2%80%8B%E2%80%8B%E2%80%8B%E2%80%8B,Report%20it.&text=%E2%80%8BThe%20Department%20of%20Health,call%20911%20for%20immediate%20assistance.** The Department of Health Care Services (DHCS) asks that anyone suspecting Medi-Cal fraud, waste, or abuse to call the DHCS Medi-Cal Fraud Hotline at **1-800-822-6222 or email us at** fraud@dhcs.ca.gov
CO	*https://cdhs.colorado.gov/report-fraud-to-colorado-department-of-human-services#:~:text=If%20fraud%20is%20suspected%20at,to%20report%20fraud%20in%20Spanish.* **Report fraud to Colorado Department of Human Services** The Colorado Department of Human Services is committed to discovering and addressing fraud, waste and abuse. CDHS's jurisdiction encompasses inappropriate activity by internal employees, contractors and grant recipients, which may include counties as well as private businesses and non-profit entities. Private citizens are encouraged to report financial and time fraud as well as waste or misuse of resources. If fraud is suspected at the county level, please contact your county human services office. **For all other fraud concerns, contact the CDHS Fraud Hotline at 877.934.6361 or fill out the form below. Note: The fraud hotline and online form now include the option to report fraud in Spanish.**
FL	**https://ahca.myflorida.com/agency-administration/office-of-inspector-general/medicaid-fraud-protect-your-tax-dollars#:~:text=These%20complaints%20may%20be%20filed,at%20http%3A%2F%2Fmyfloridalegal.com.** These complaints may be filed online using the Medicaid billing fraud online complaint form or by telephone at 1-888-419-3456. To report suspected Medicaid fraud by health care providers you may also contact the Office of Attorney General at 1-866-966-7226 or file a complaint online at http://myfloridalegal.com.
GA	*https://law.georgia.gov/resources/medicaid-fraud-division*

State	Additional Information About The Fraud & Abuse Reporting Process
	If you suspect that Medicaid fraud may be occurring, file a report with the Medicaid Fraud Division **The Georgia Medicaid Fraud Division** The office is open Monday through Friday from 8:30 a.m. to 5:00 p.m. **Phone** *(404) 458-2878* , ext. 664 ***report_medicaid_fraud@law.ga.gov*** https://dch.georgia.gov/office-inspector-general/report-fraud-waste-and-abuse **Report Fraud, Waste, and Abuse** Contact **To Report Medicaid/PeachCare for Kids Fraud, Waste and Abuse** Georgia Department of Community Health, Office of the Inspector General ***medicaid.oig@dch.ga.gov*** ***Submit Online Form (Not Anonymous)*** **Primary** *(404) 463-7590* **Toll Free** *(800) 533-0686*
HI	*https://medquest.hawaii.gov/en/members-applicants/fraud-prevention.html* **Department of Human Services:** Medicaid Recipient Fraud – If you think someone may be receiving Medicaid benefits to which they are not entitled to, including medical coverage, financial assistance, food stamps, etc. you can call the Investigations Office of the Benefits Employment & Support Services Division. The hotline number is (808) 587-8444. Medicaid Provider Fraud – To report suspected fraud by Medicaid Providers, which include doctors, nurses, hospitals, durable medical equipment suppliers, home health services, physical therapy, personal care attendants, etc. you can call the Medicaid Investigator at: (808) 692-8072. *https://ag.hawaii.gov/cjd/medicaid-fraud-control-unit/* **MEDICAID FRAUD CONTROL UNIT (MFCU)** **REPORT SUSPECTED FRAUD, ABUSE, OR NEGLECT** Click on the appropriate link below to be taken to the MFCU's online complaint portal for Medicaid Fraud, Abuse, or Neglect. **REPORT MEDICAID FRAUD** **REPORT ABUSE OR NEGLECT** **CONTACT THE MFCU** Telephone: 808-586-1058 Facsimile: 808-586-1077

State	Additional Information About The Fraud & Abuse Reporting Process
ID	**https://www.ag.idaho.gov/office-resources/medicaid-fraud/** To report Medicaid recipient fraud, contact the Idaho Department of Health & Welfare at 1-866-635-7515 or by e–mail at welfraud@dhw.idaho.gov.
ILL	*https://hfs.illinois.gov/oig/reportfraud.html* If you suspect the recipient of Medicaid, TANF, or Childcare benefits is committing fraud, please click below or call ***1-844-453-7283***/1-844-ILFRAUD. Medicaid Provider Fraud **I**f you suspect a Medicaid provider (*e.g.*, doctor, hospital, nursing home, personal assistant) or a Managed Care Organization, Illinois Health Connect, First Transit, or DentaQuest of committing fraud, please click below or call 1-844-ILFRAUD/1-844-453-7283. *https://isp.illinois.gov/MedicaidFraud* **To Report Medicaid Provider Fraud, Abuse, or Neglect - Call (866)-748-2297**
LA	**https://ldh.la.gov/page/219#:~:text=1.,488.2917%20for%20Provider%20Fraud%20complaints.** There are several ways you can alert the Louisiana Department of Health for investigation and swift punishment: 1. Call toll-free **1.800.488.2917** for **Provider** Fraud complaints. Call toll-free **1.833.920.1773** for **Recipient** Fraud complaints. 2. Complete the appropriate form below and submit it electronically. • Provider Fraud Form • Recipient Fraud Form 3. Submit your **Provider** fraud complaint by mail to: Gainwell SURS Department 8591 United Plaza Blvd. Baton Rouge, LA 70809 Submit your **Recipient** fraud complaint by mail to: **Customer Service Unit** Louisiana Department of Health P.O. Box 91278 Baton Rouge, LA 70821-9278 4. Fax **Provider** Fraud complaints to 225.216.6129. Fax **Recipient** Fraud complaints to 225.389.2610. **You can report anonymously.**
MO	*https://ago.mo.gov/divisions/medicaid-fraud/* You may report Medicaid fraud by using any of the following methods: • Call toll free at **(800) 286-3932** • Fill out and submit an ***online complaint form***

State	**Additional Information About** The **Fraud & Abuse Reporting Process**
	Download, complete, and mail a ***complaint form*** to: **Missouri Attorney General's Office** Medicaid Fraud Control Unit P.O. Box 899 Jefferson City, MO 65102 MO Dept. of Social Services https://mmac.mo.gov/fraud/report-fraud/ Medicaid fraud impacts Missouri taxpaying citizens whose tax dollars are being subjected to fraud, waste and abuse. Medicaid fraud also affects participants whose benefits are governed by dollars available and providers whose professions are impacted by the effects of others' abuse. Here is how you can report Missouri Medicaid fraud: • **MMAC Fraud Hotline: (573) 751-3285** • **MMAC Fraud Email**: ***MMAC.ReportFraud@dss.mo.gov***
NM	**https://www.nmag.gov/about-the-office/criminal-affairs/medicaid-fraud-control-unit/** **https://www.hsd.state.nm.us/lookingforassistance/report_fraud/** **Phone 1 (800) 228-4802** **Fax (505) 797-5127** **Email HSD-OIG.Fraud@HSD.NM.GOV** **Mail** **New Mexico Human Services Department** **Office of Inspector General** **8909 Adams St. NE, Suite A** **Albuquerque, NM 87113**
OH	*https://medicaid.ohio.gov/stakeholders-and-partners/helpfullinks/reporting-suspected-medicaid-fraud* **Reporting Medical Provider Fraud** If you wish to report fraud being committed by a medical provider, call 614-466-0722 or *click here* for the Attorney General's office to make an anonymous report. *https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Consumers/Recognize-and-Report-Medicaid-Fraud-(PDF).aspx* TO MAKE A REPORT: » Call 614-466-0722 or 800-282-0515. » Send a fax to 877-527-1305. » *https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud/Report-Medicaid-Fraud* Visit www.OhioAttorneyGeneral.gov/ ReportMedicaidFraud.
NV	**https://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/** If you suspect that Medicaid Fraud may be occurring, complete and submit one of the forms below by emailing it to mfcuintake@ag.nv.gov. You may also mail the complaint to the Office of the Attorney General, Medicaid Fraud Control Unit, 100 North Carson Street, Carson City, NV 89701. Please call us at 775-684-1100 or 702-486-3420 if you have any questions. • Complaint Form
PA	**https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Fraud-and-Abuse---General-Information.aspx**

State	Additional Information About The Fraud & Abuse Reporting Process
	Suspected fraud and abuse can also be reported by telephone at 1-844-DHS-TIPS (1-844-347-8477) or by writing to us at: **Department of Human Services** Office of Administration Bureau of Program Integrity P.O. Box 2675 Harrisburg, PA 17105-2675
TX	**https://oig.hhs.texas.gov/report-fraud-waste-or-abuse#:~:text=Report%20suspected%20fraud%2C%20waste%20or,%2D436%2D6184%20or%20online.** Report suspected fraud, waste or abuse involving Texas Health and Human Services (HHS) programs by calling the OIG Fraud Hotline at 800-436-6184 or online.
WY	**https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit** **Report Fraud and Abuse:** You can report suspected fraud by a Medicaid provider or patient abuse, neglect, or exploitation in a Medicaid-funded facility by: ▪ Filling out our online form, ▪ Mailing us a completed paper form, ▪ Emailing complaints to ag.medicaid.fraud@wyo.gov, or ▪ Calling the Medicaid Fraud Control Unit at 1-800-378-0345. ▪ To report suspected fraud by a Medicaid recipient, call the Wyoming Department of Health, Healthcare Financing, Program Integrity Unit, Fraud Hotline at 1(855) 846-2563.

3. **Centers for Medicare & Medicaid Services (CMS) @ *https://www.cms.gov/About-CMS/Components/CPI/CPIReportingFraud***

4. **US.DOJ. FBI @ https://www.fbi.gov/investigate/white-collar-crime/health-care-fraud**

5. **U.S. Department of Health & Human Services Office of Inspector General**

   To report fraud in all federal health care programs including Medicare, Medicaid & SCHIP, you can contact the U.S. Department of Health and Human Services Office of Inspector General [http://oig.hhs.gov/fraud/report-fraud/index.asp]:

   - **Phone:** 1-800-HHS-TIPS (1-800-447-8477)
   - ***Fax:** 1-800-223-8164
   - **TTY:** 1-800-377-4950
   - **Email:** HHSTips@oig.hhs.gov

     Mail:
     U.S. Department of Health & Human Services
     Office of Inspector General
     ATTN: OIG HOTLINE OPERATIONS
     PO Box 23489
     Washington, DC 20026

To facilitate expeditious investigation of the alleged fraud regarding Medicaid or the Children's Health Insurance Program (CHIP), it is helpful to have as much information as possible. Pertinent/relevant information includes:

- Name of Medicaid (or CHIP) client;
- Client's Medicaid (or CHIP) card number;
- Name of doctor, hospital, or other healthcare provider;
- Date of service;
- Amount of money Medicaid (or CHIP) approved and/or paid; and
- A description of the acts that you suspect involve fraud.

PART II – THE FEDERAL FALSE CLAIMS ACT

Federal False Claims Act

The Federal False Claims Act (FCA) is a federal statute that covers fraud involving any federally funded contract or program, including the Medicare and Medicaid programs. The Federal False Claims Act (FCA) applies to all federal programs. Under the FCA, any individual or organization that knowingly submits a fraudulent or false claim for payment or approval under any federally funded health care program is subject to civil penalties. The Federal government uses the FCA to combat fraud, waste, and abuse in federal programs, contracts, & federal purchases. In addition to civil penalties, individuals and entities can also be excluded from participating in any federal health care program for non-compliance.

31 USCS § 3729.- FALSE CLAIMS

(a) Liability for certain acts

Any person who—

A. knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
B. knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
C. conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);
D. has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
E. is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
F. knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
G. knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

PENALTIES PER CLAIM

Is liable to the United States Government for a civil penalty of not less than $ 5,500 and not more than $ 11,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that--

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation; the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

DEFINITIONS

(b) Definitions. For purposes of this section--

1. the terms **"knowing"** and **"knowingly"**--
   (A) mean that a person, with respect to information--
      (i) has actual knowledge of the information;
      (ii) acts in deliberate ignorance of the truth or falsity of the information; or
      (iii) acts in reckless disregard of the truth or falsity of the information; and
   (B) require no proof of specific intent to defraud;

2. the term **"claim"**--
   (A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that--
      (i) is presented to an officer, employee, or agent of the United States; or
      (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government--
         (I) provides or has provided any portion of the money or property requested or demanded; or
         (II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and
   (B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;

3. the term **"obligation"** means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

4. the term **"material"** means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(c) **Exemption from disclosure**. Any information furnished pursuant to subsection (a)(2) shall be exempt from disclosure under section 552 of title 5.

(d) **Exclusion**. This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986 [*26 USCS §§ 1* et seq.].

ENFORCEMENT

31 USCS § 3730

(a) Responsibilities of the Attorney General.
The Attorney General diligently shall investigate a violation under section 3729 [*31 USCS § 3729*]. If the Attorney General finds that a person has violated or is violating section 3729 [*31 USCS § 3729*], the Attorney General may bring a civil action under this section against the person.

(b) Actions by Private Persons - Whistleblower

1. A person may bring a civil action for a violation of section 3729 [*31 USCS § 3729*] for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.
2. A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to *Rule 4(d)(4) of the Federal Rules of Civil Procedure.* The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.
3. The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to *Rule 4 of the Federal Rules of Civil Procedure.*
4. Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall--
   (A) proceed with the action, in which case the action shall be conducted by the Government; or
   (B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.
5. When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

(c) Rights of the Parties to Qui Tam Actions

1. If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).
2. A. The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the

person with an opportunity for a hearing on the motion.

B. The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

C. Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as--

(i) limiting the number of witnesses the person may call;
(ii) limiting the length of the testimony of such witnesses;
(iii) limiting the person's cross-examination of witnesses; or
(iv) otherwise limiting the participation by the person in the litigation.

D. Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

3. If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.
4. Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.
5. Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) Award to Qui Tam Plaintiff.

1. If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government [General] Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.
2. If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.
3. Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 [*31 USCS § 3729*] upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729 [*31 USCS § 3729*], that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.
4. If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(e) **Certain Actions Barred**

1. No court shall have jurisdiction over an action brought by a former or present member of the armed forces under subsection (b) of this section against a member of the armed forces arising out of such person's service in the armed forces.
2. (A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

(B) For purposes of this paragraph, "senior executive branch official" means any officer or employee listed in paragraphs (1) through (8) of section 101(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

3. In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.
4. (A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government [General] Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

(f) **Government not liable for certain expenses**. The Government is not liable for expenses which a person incurs in bringing an action under this section.
(g) **Fees and expenses to prevailing defendant**. In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.

(h) Relief from Retaliatory Actions.

1. In general. Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, or agent on behalf of the employee, contractor, or agent or associated others in furtherance of other efforts to stop 1 or more violations of this subchapter [*31 USCS §§ 3721* et seq.].
2. Relief. Relief under paragraph (1) shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States for the relief provided in this subsection.

31 USCS § 3731. False claims procedure

(a) A subpoena [subpoena] requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this *title* [*31 USCS § 3730*] may be served at any place in the United States.
(b) A civil action under section 3730 [*31 USCS § 3730*] may not be brought—
1. more than 6 years after the date on which the violation of section 3729 [*31 USCS § 3729*] is committed, or
2. more than 3 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 United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(c) If the Government elects to intervene and proceed with an action brought under 3730(b) [*31 USCS § 3730(b)*], the Government may file its own complaint or amend the complaint of a person who has brought an action under section 3730(b) [*31 USCS § 3730(b)*] to clarify or add detail to the claims in which the Government is intervening and to add any additional claims with respect to which the Government contends it is entitled to relief. For statute of limitations purposes, any such Government pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the Government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.
(d) In any action brought under section 3730 [*31 USCS § 3730*], the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.
(e) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730 [*31 USCS § 3730*].

31 USCS § 3732. False claims jurisdiction

(a) **Actions under section 3730**. Any action under section 3730 [*31 USCS § 3730*] may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 [*31 USCS § 3729*] occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

(b) **Claims under State law.** The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same transaction or occurrence as an action brought under section 3730 [*31 USCS § 3730*].

(c) **Service on State or local authorities**. With respect to any State or local government that is named as a co-plaintiff with the United States in an action brought under subsection (b), a seal on the action ordered by the court under section 3730(b) [*31 USCS § 3730(b)*] shall not preclude the Government or the person bringing the action from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the person bringing the action on the law enforcement authorities that are authorized under the law of that State or local government to investigate and prosecute such actions on behalf of such governments, except that such seal applies to the law enforcement authorities so served to the same extent as the seal applies to other parties in the action.

31 USCS § 3802. False Claims and Statements; Liability

(a) [Caution: For inflation-adjusted civil monetary penalties, see 28 CFR 85.3.]

(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know--

(A) is false, fictitious, or fraudulent;
(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
(C) includes or is supported by any written statement that--
(i) omits a material fact;
(ii) is false, fictitious, or fraudulent as a result of such omission; and
(iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
(D) is for payment for the provision of property or services which the person has not provided as claimed, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $ 5,500 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter [31 USCS §§ 3801 et seq.] to be in violation of the preceding sentence.

(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that--

(A) the person knows or has reason to know--
(i) asserts a material fact which is false, fictitious, or fraudulent; or
(ii) (I) omits a material fact; and
(II) is false, fictitious, or fraudulent as a result of such omission;

(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and
(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $ 5,500 for each such statement.

(3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

31 USCS § 3733. Civil investigative demands

(a) In general.

1. **Issuance and service**. Whenever the Attorney General, or a designee (for purposes of this section), has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General, or a designee, may, before commencing a civil proceeding under section 3730(a) [*31 USCS § 3730(a)*] or other false claims law, or making an election under section 3730(b) [*31 USCS § 3730(b)*], issue in writing and cause to be served upon such person, a civil investigative demand requiring such person--

(A) to produce such documentary material for inspection and copying,
(B) to answer in writing written interrogatories with respect to such documentary material or information,
(C) to give oral testimony concerning such documentary material or information, or
(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determine it is necessary as part of any false claims act investigation.

2. **Contents and deadlines**.

(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.
(B) If such demand is for the production of documentary material, the demand shall—

i. describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;
ii. prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and
iii. identify the false claims law investigator to whom such material shall be made available.

(C) If such demand is for answers to written interrogatories, the demand shall—

i. set forth with specificity the written interrogatories to be answered;
ii. (ii) prescribe dates at which time answers to written interrogatories shall be submitted; and
iii. identify the false claims law investigator to whom such answers shall be submitted.

(D) If such demand is for the giving of oral testimony, the demand shall—
i. prescribe a date, time, and place at which oral testimony shall be commenced;
ii. identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;
iii. specify that such attendance and testimony are necessary to the conduct of the investigation;
iv. notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and
v. describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.
(F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.
(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

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PART III – OTHER FEDERAL LAWS REGARDING FRAUD, WASTE, & ABUSE

The American Recovery and Reinvestment Act of 2009 (ARRA)

A. Definitions

1. Covered funds means any contract, grant, or other payment received by Magellan if:

   a) The Federal Government provides any portion of the money or property that is provided, requested, or demanded; and

   b) At least some of the funds are appropriated or otherwise made available by ARRA.

B. No Retaliation

1. Magellan receives covered funds under ARRA through its contracts directly with state Medicaid agencies and as a subcontractor through its contracts with other entities that have contracts with state Medicaid agencies such as Medicaid Managed Care Organizations.

2. An employee of Magellan may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of:

   a) Gross mismanagement of an agency contract or grant relating to covered funds;

   b) A gross waste of covered funds;

   c) A substantial and specific danger to public health or safety related to the implementation or use of covered funds;

   d) An abuse of authority related to the implementation or use of covered funds; or

   e) A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

THIS ACT MAY BE CITED AS THE "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009"
Section 1553 of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) provides protections for certain individuals who make specific disclosures about the use of Recovery Act funds. Additional information is available at *http://www.oig.dol.gov/recovery/arrawhistleblowers.htm*.

SEC. 1553. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) **PROHIBITION OF REPRISALS.—**An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—
(1) gross mismanagement of an agency contract or grant relating to covered funds;
(2) a gross waste of covered funds;
(3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
(4) an abuse of authority related to the implementation or use of covered funds; or
(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) **INVESTIGATION OF COMPLAINTS.—**

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general. Except as provided under paragraph (3), unless the inspector general determines that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation
to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—
(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall, not later than 180 days after receiving a complaint under paragraph (1)—
(i) make a determination that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint; or
(ii) submit a report under paragraph (1).

(B) EXTENSIONS.—
(i) VOLUNTARY EXTENSION AGREED TO BETWEEN INSPECTOR GENERAL AND COMPLAINANT.—If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.
(ii) EXTENSION GRANTED BY INSPECTOR GENERAL.—
If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A), the inspector general may extend the period for not more than 180 days without agreeing with the person submitting the complaint to such extension, provided that the inspector general provides a written
explanation (subject to the authority to exclude information under paragraph (4)(C)) for the decision, which shall be provided to both the person submitting the complaint and the non-Federal employer.
(iii) SEMI-ANNUAL REPORT ON EXTENSIONS.—The inspector general shall include in semi-annual reports to Congress a list of those investigations for which the inspector general received an extension.
(3) DISCRETION NOT TO INVESTIGATE COMPLAINTS.—
(A) IN GENERAL.—The inspector general may decide not to conduct or continue an investigation under this section upon providing to the person submitting the complaint and the non-Federal employer a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for such decision.
(B) ASSUMPTION OF RIGHTS TO CIVIL REMEDY.—Upon receipt of an explanation of a decision not to conduct or continue an investigation under subparagraph (A), the person submitting a complaint shall immediately assume the right to a civil remedy under subsection (c)(3) as if the 210-day period specified under such subsection has already passed.
(C) SEMI-ANNUAL REPORT.—The inspector general shall include in semi-annual reports to Congress a list of those investigations the inspector general decided not to conduct or continue under this paragraph.
(4) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL.—
(A) IN GENERAL.—The person alleging a reprisal under this section shall have access to the investigation file of the appropriate inspector general in accordance with section 552a of title 5, United States Code (commonly referred to as the "Privacy Act"). The investigation of the inspector general shall be deemed closed for purposes of disclosure under such section when an employee files an appeal to an agency head or a court of competent jurisdiction.
(B) CIVIL ACTION.—In the event the person alleging the reprisal brings suit under subsection (c)(3), the person alleging the reprisal and the non-Federal employer shall have access to the investigative file of the inspector general in accordance with the Privacy Act.
(C) EXCEPTION.—The inspector general may exclude from disclosure—
(i) information protected from disclosure by a provision of law; and
(ii) any additional information the inspector general determines disclosure of which would impede a continuing investigation, provided that such information is disclosed once such disclosure would no longer impede such investigation, unless the inspector general determines that disclosure of law enforcement techniques, procedures, or information could reasonably be expected to risk circumvention of the law or disclose the identity of a confidential source.
(5) PRIVACY OF INFORMATION.—An inspector general investigating an alleged reprisal under this section may not respond to any inquiry or disclose any information from or about any person alleging such reprisal, except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—
(1) BURDEN OF PROOF.—
(A) DISCLOSURE AS CONTRIBUTING FACTOR IN
REPRISAL.—
(i) IN GENERAL.—A person alleging a reprisal under this section shall be deemed to have affirmatively established the occurrence of the reprisal if the person demonstrates that a disclosure described in subsection (a) was a contributing factor in the reprisal.
(ii) USE OF CIRCUMSTANTIAL EVIDENCE.—A disclosure may be demonstrated as a contributing factor in a reprisal for purposes of this paragraph by circumstantial evidence, including—
(I) evidence that the official undertaking the reprisal knew of the disclosure; or
(II) evidence that the reprisal occurred within a period o f time after the disclosure such that a reasonable person could conclude that the disclosure was a contributing factor in the reprisal.
(B) OPPORTUNITY FOR REBUTTAL.—The head of an agency may not find the occurrence of a reprisal with respect to a reprisal that is affirmatively established under subparagraph (A) if the non-Federal employer demonstrates by clear and convincing evidence that the non-Federal employer would have taken the action constituting the reprisal in the absence of the disclosure.

(2) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief in whole or in part or shall take 1 or more of the following actions:
(A) Order the employer to take affirmative action to abate the reprisal.
(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency or a court of competent jurisdiction.
(3) CIVIL ACTION.—If the head of an agency issues an order denying relief in whole or in part under paragraph (1), has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B)(i), within 30 days after the expiration of the extension of time, or decides under subsection (b)(3) not to investigate or to discontinue an investigation, and there is no showing that such delay or decision is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.
(4) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (2), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorneys' fees and costs.
(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order's conformance with this subsection, and

(d) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—
(1) WAIVER OF RIGHTS AND REMEDIES.—Except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.
(2) PREDISPUTE ARBITRATION AGREEMENTS.—Except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section.
(3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—
Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement.
(e) **REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES.—**
Any employer receiving covered funds shall post notice of the rights and remedies provided under this section.
(f) RULES OF CONSTRUCTION.—
(1) NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.
(2) RELATIONSHIP TO STATE LAWS.—Nothing in this section may be construed to preempt, preclude, or limit the protections provided for public or private employees under State whistleblower laws.
(g) **DEFINITIONS.—In this section:**
(1) ABUSE OF AUTHORITY.—The term "abuse of authority" means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that results in personal gain or advantage to the official or employee or to preferred other persons.
(2) COVERED FUNDS.—The term "covered funds" means any contract, grant, or other payment received by any non-Federal employer if—
(A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and
(B) at least some of the funds are appropriated or otherwise made available by this Act.
(3) EMPLOYEE.—The term "employee"—
(A) except as provided under subparagraph (B), means an individual performing services on behalf of an employer;
And (B) does not include any Federal employee or member of the uniformed services (as that term is defined in section

101(a)(5) of title 10, United States Code).
(4) NON-FEDERAL EMPLOYER.—The term “non-Federal employer”—
(A) means any employer—
(i) with respect to covered funds—
(I) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code. subcontractor, grantee, or recipient is an employer; and
(II) any professional membership organization, certification or other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or
(ii) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government; and
(B) does not mean any department, agency, or other entity of the Federal Government.
(5) STATE OR LOCAL GOVERNMENT.—The term “State or local government” means—
(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States; or
(B) the government of any political subdivision of a government listed in subparagraph (A).

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18 USCS § 24 - Definitions relating to Federal health care offense

(a) As used in this title, the term "Federal health care offense" means a violation of, or a criminal conspiracy to violate--
(1) section 669, 1035, 1347, or 1518 of this *title [18 USCS § 669*, *1035*, *1347*, or *1518*] or section 1128B of the Social Security Act (*42 U.S.C. 1320a-7b*); or
(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1349, or 1954 of this *title [18 USCS § 287*, *371*, *664*, *666*, *1001*, *1027*, *1341*, *1343*, *1349*, or *1954*], *section 301* of the Federal Food, Drug, and Cosmetic Act (*21 U.S.C. 331*), or section 501 of the Employee Retirement Income Security Act of 1974 (*29 U.S.C. 1131*), or section 411, 518, or 511 of the Employee Retirement Income Security Act of 1974 [*29 USCS § 1111*, *1148*, or *1141*], if the violation or conspiracy relates to a health care benefit program.

(b) As used in this title, the term "health care benefit program" means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.

18 USCS § 1347 - Health care fraud

(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice--
(1) to defraud any health care benefit program; or
(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this *title [18 USCS § 1365*]), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

(b) With respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

42 USCS § 1320a-7 - Exclusion of certain individuals and entities from participation in Medicare and State health care programs

(a) Mandatory exclusion. The Secretary shall exclude the following individuals and entities from participation in any Federal health care program (as defined in section 1128B(f) [*42 USCS § 1320a-7b(f)*]):
(1) Conviction of program-related crimes. Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under title XVIII [*42 USCS §§ 1395* et seq.] or under any State health care program.
(2) Conviction relating to patient abuse. Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.
(3) Felony conviction relating to health care fraud. Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 [enacted Aug. 21, 1996], under
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Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(4) Felony conviction relating to controlled substance. Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 [enacted Aug. 21, 1996], under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(b) Permissive exclusion. The Secretary may exclude the following individuals and entities from participation in any Federal health care program (as defined in section 1128B(f) [*42 USCS § 1320a-7b(f)*]):

(1) Conviction relating to fraud. Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 [enacted Aug. 21, 1996], under Federal or State law--

(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct--

(i) in connection with the delivery of a health care item or service, or

(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.

(2) Conviction relating to obstruction of an investigation or audit. Any individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation or audit related to--

(i) any offense described in paragraph (1) or in subsection (a); or

(ii) the use of funds received, directly or indirectly, from any Federal health care program (as defined in section 1128B(f) [*42 USCS § 1320a-7b(f)*]).

(3) Misdemeanor conviction relating to controlled substance. Any individual or entity that has been convicted, under Federal or State law, of a criminal offense consisting of a misdemeanor relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(4) License revocation or suspension. Any individual or entity--

(A) whose license to provide health care has been revoked or suspended by any State licensing authority, or who otherwise lost such a license or the right to apply for or renew such a license, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity, or

(B) who surrendered such a license while a formal disciplinary proceeding was pending before such an authority and the proceeding concerned the individual's or entity's professional competence, professional performance, or financial integrity.

(5) Exclusion or suspension under Federal or State health care program. Any individual or entity which has been suspended or excluded from participation, or otherwise sanctioned, under--

(A) any Federal program, including programs of the Department of Defense or the Department of Veterans Affairs, involving the provision of health care, or

(B) a State health care program,

for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity.

(6) Claims for excessive charges or unnecessary services and failure of certain organizations to furnish medically necessary services. Any individual or entity that the Secretary determines--

(A) has submitted or caused to be submitted bills or requests for payment (where such bills or requests are based on charges or cost) under title XVIII [*42 USCS §§ 1395* et seq.] or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual's or entity's usual charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs;

(B) has furnished or caused to be furnished items or services to patients (whether or not eligible for benefits under title XVIII [*42 USCS §§ 1395* et seq.] or under a State health care program) substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care;

(C) is--

(i) a health maintenance organization (as defined in section 1903(m) [*42 USCS § 1396b(m)*]) providing items and services under a State plan approved under title XIX [*42 USCS §§ 1396* et seq.], or

(ii) an entity furnishing services under a waiver approved under section 1915(b)(1) [*42 USCS § 1396n(b)(1)*],

and has failed substantially to provide medically necessary items and services that are required (under law or the contract with the State under title XIX [*42 USCS §§ 1396* et seq.]) to be provided to individuals covered under that plan or waiver, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals; or

(D) is an entity providing items and services as an eligible organization under a risk-sharing contract under section 1876 [*42 USCS § 1395mm*] and has failed substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under the risk-sharing contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals.

(7) Fraud, kickbacks, and other prohibited activities. Any individual or entity that the Secretary determines has committed an act which is described in section 1128A, 1128B, or 1129 [*42 USCS § 1320a-7a*, *1320a-7b*, or *1320a-8*].

(8) Entities controlled by a sanctioned individual. Any entity with respect to which the Secretary determines that a person--

(A) (i) who has a direct or indirect ownership or control interest of 5 percent or more in the entity or with an ownership or control interest (as defined in section 1124(a)(3) [*42 USCS § 1320a-3(a)(3)*]) in that entity,

(ii) who is an officer, director, agent, or managing employee (as defined in section 1126(b) [*42 USCS § 1320a-5(b)*]) of that entity; or

(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to an immediate family member (as defined in subsection (j)(1)) or a member of the household of the person (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause--

is a person--

(B) (i) who has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

(ii) against whom a civil monetary penalty has been assessed under section 1128A or 1129 [*42 USCS § 1320a-7a* or *1320a-8*]; or
(iii) who has been excluded from participation under a program under title XVIII [*42 USCS §§ 1395* et seq.] or under a State health care program.
(9) Failure to disclose required information. Any entity that did not fully and accurately make any disclosure required by section 1124, section 1124A, or section 1126 [*42 USCS § 1320a-3*, *1320a-3a*, or *1320a-5*].
(10) Failure to supply requested information on subcontractors and suppliers. Any disclosing entity (as defined in section 1124(a)(2) [*42 USCS § 1320a-3(a)(2)*]) that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to the entity by the Secretary or by the State agency administering or supervising the administration of a State health care program--
(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom the entity has had, during the previous 12 months, business transactions in an aggregate amount in excess of $ 25,000, or
(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between the entity and any wholly owned supplier or between the entity and any subcontractor.
(11) Failure to supply payment information. Any individual or entity furnishing, ordering, referring for furnishing, or certifying the need for items or services for which payment may be made under title XVIII [*42 USCS §§ 1395* et seq.] or a State health care program that fails to provide such information as the Secretary or the appropriate State agency finds necessary to determine whether such payments are or were due and the amounts thereof, or has refused to permit such examination of its records by or on behalf of the Secretary or that agency as may be necessary to verify such information.
(12) Failure to grant immediate access. Any individual or entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations) to any of the following:
(A) To the Secretary, or to the agency used by the Secretary, for the purpose specified in the first sentence of section 1864(a) [*42 USCS § 1395aa(a)*] (relating to compliance with conditions of participation or payment).
(B) To the Secretary or the State agency, to perform the reviews and surveys required under State plans under paragraphs (26), (31), and (33) of section 1902(a) and under section 1903(g) [*42 USCS §§ 1396a(a)(26)*, (31), (33), 1396b(g)].
(C) To the Inspector General of the Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary to the performance of the statutory functions of the Inspector General.
(D) To a State medicaid fraud control unit (as defined in section 1903(q) [*42 USCS § 1396b(q)*]), for the purpose of conducting activities described in that section.
(13) Failure to take corrective action. Any hospital that fails to comply substantially with a corrective action required under section 1886(f)(2)(B) [*42 USCS § 1395ww(f)(2)(B)*].
(14) Default on health education loan or scholarship obligations. Any individual who the Secretary determines is in default on repayments of scholarship obligations or loans in connection with health professions education made or secured, in whole or in part, by the Secretary and with respect to whom the Secretary has taken all reasonable steps available to the Secretary to secure repayment of such obligations or loans, except that (A) the Secretary shall not exclude pursuant to this paragraph a physician who is the sole community physician or sole source of essential specialized services in a community if a State requests that the physician not be excluded, and (B) the Secretary shall take into account, in determining whether to exclude any other physician pursuant to this paragraph, access of beneficiaries to physician services for which payment may be made under title XVIII or XIX [*42 USCS §§ 1395* et seq. or *1396* et seq.].
(15) Individuals controlling a sanctioned entity.
(A) Any individual--
(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6) [1128A(i)(7)] [*42 USCS § 1320a-7a(i)(7)*]) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or
(ii) who is an officer or managing employee (as defined in section 1126(b) [*42 USCS § 1320a-5(b)*]) of such an entity.
(B) For purposes of subparagraph (A), the term "sanctioned entity" means an entity--
(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or
(ii) that has been excluded from participation under a program under title XVIII [*42 USCS §§ 1395* et seq.] or under a State health care program.
(16) Making false statements or misrepresentation of material facts. Any individual or entity that knowingly makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, agreement, bid, or contract to participate or enroll as a provider of services or supplier under a Federal health care program (as defined in section 1128B(f) [*42 USCS § 1320a-7b(f)*]), including Medicare Advantage organizations under part C of title XVIII [*42 USCS §§ 1395w-21* et seq.], prescription drug plan sponsors under part D of title XVIII [*42 USCS §§ 1395w-101* et seq.], Medicaid managed care organizations under title XIX [*42 USCS § 1396* et seq.], and entities that apply to participate as providers of services or suppliers in such managed care organizations and such plans.
(17) Knowingly misclassifying covered outpatient drugs
Any manufacturer or officer, director, agent, or managing employee of such manufacturer that knowingly misclassifies a covered outpatient drug under an agreement under section 1396r-8 of this title, knowingly fails to correct such misclassification, or knowingly provides false information related to drug pricing, drug product information, or data related to drug pricing or drug product information.

(c) Notice, effective date, and period of exclusion.
(1) An exclusion under this section or under section 1128A [*42 USCS § 1320a-7a*] shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).
(2) (A) Except as provided in subparagraph (B), such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.
(B) Unless the Secretary determines that the health and safety of individuals receiving services warrants the exclusion taking effect earlier, an exclusion shall not apply to payments made under title XVIII [*42 USCS §§ 1395* et seq.] or under a State health care program for--
(i) inpatient institutional services furnished to an individual who was admitted to such institution before the date of the exclusion, or
(ii) home health services and hospice care furnished to an individual under a plan of care established before the date of the exclusion,
until the passage of 30 days after the effective date of the exclusion.
(3)

(A) The Secretary shall specify, in the notice of exclusion under paragraph (1) and the written notice under section 1128A [*42 USCS § 1320a-7a*], the minimum period (or, in the case of an exclusion of an individual under subsection (b)(12) or in the case described in subparagraph (G), the period) of the exclusion.

(B) Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f) [*42 USCS § 1320a-7b(f)*]) who determines that the exclusion would impose a hardship on beneficiaries (as defined in section 1128A(i)(5) [*42 USCS § 1320a-7a(i)(5)*]) of that program, the Secretary may, after consulting with the Inspector General of the Department of Health and Human Services, waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community. The Secretary's decision whether to waive the exclusion shall not be reviewable.

(C) In the case of an exclusion of an individual under subsection (b)(12), the period of the exclusion shall be equal to the sum of--

(i) the length of the period in which the individual failed to grant the immediate access described in that subsection, and

(ii) an additional period, not to exceed 90 days, set by the Secretary.

(D) Subject to subparagraph (G), in the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.

(G) In the case of an exclusion of an individual under subsection (a) based on a conviction occurring on or after the date of the enactment of this subparagraph [enacted Aug. 5, 1997], if the individual has (before, on, or after such date) been convicted--

(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.

(d) Notice to State agencies and exclusion under State health care programs.

(1) Subject to paragraph (3), the Secretary shall exercise the authority under this section and section 1128A [*42 USCS § 1320a-7a*] in a manner that results in an individual's or entity's exclusion from all the programs under title XVIII [*42 USCS §§ 1395* et seq.] and all the State health care programs in which the individual or entity may otherwise participate.

(2) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act [*21 USCS § 824(a)(5)*] may apply, the Attorney General)--

(A) of the fact and circumstances of each exclusion effected against an individual or entity under this section or section 1128A [*42 USCS § 1320a-7a*], and

(B) of the period (described in paragraph (3)) for which the State agency is directed to exclude the individual or entity from participation in the State health care program.

(3) (A) Except as provided in subparagraph (B), the period of the exclusion under a State health care program under paragraph (2) shall be the same as any period of exclusion under title XVIII [*42 USCS §§ 1395* et seq.].

(B) (i) The Secretary may waive an individual's or entity's exclusion under a State health care program under paragraph (2) if the Secretary receives and approves a request for the waiver with respect to the individual or entity from the State agency administering or supervising the administration of the program.

(ii) A State health care program may provide for a period of exclusion which is longer than the period of exclusion under title XVIII [*42 USCS §§ 1395* et seq.].

(e) Notice to State licensing agencies. The Secretary shall--

(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A [*42 USCS § 1320a-7a*], of the fact and circumstances of the exclusion,

(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

(3) request that the State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to the request.

(f) Notice, hearing, and judicial review.

(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b) [*42 USCS § 405(b)*], and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) [*42 USCS § 405(g)*], except that, in so applying such sections and section 205(l) [*42 USCS § 405(l)*], any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination under subsection (b)(7) shall be entitled to a hearing by an administrative law judge (as provided under section 205(b) [*42 USCS § 405(b)*]) on the determination under subsection (b)(7) before any exclusion based upon the determination takes effect.

(3) The provisions of section 205(h) [*42 USCS § 405(h)*] shall apply with respect to this section and sections 1128A, 1129, and 1156 [*42 USCS §§ 1320a-7a*, *1320a-8*, *1320c-5*] to the same extent as it is applicable with respect to title II [*42 USCS §§ 401* et seq.], except that, in so applying such section and section 205(l) [*42 USCS § 405(l)*], any reference therein to the Commissioner of Social Security shall be considered a reference to the Secretary.

(4) The provisions of subsections (d) and (e) of section 205 [*42 USCS § 405*] shall apply with respect to this section to the same extent as they are applicable with respect to title II [*42 USCS §§ 401* et seq.]. The Secretary may delegate the authority granted by section 205(d) [*42 USCS § 405(d)*] (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.

(g) Application for termination of exclusion.
(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A [*42 USCS § 1320a-7a*] may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion provided under subsection (c)(3) and at such other times as the Secretary may provide, for termination of the exclusion effected under this section or section 1128A [*42 USCS § 1320a-7a*].
(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that--
(A) there is no basis under subsection (a) or (b) or section 1128A(a) [*42 USCS § 1320a-7a(a)*] for a continuation of the exclusion, and
(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.
(3) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act [*21 USCS § 824(a)(5)*] may apply, the Attorney General) of the fact and circumstances of each termination of exclusion made under this subsection.

(h) "State health care program" defined. For purposes of this section and sections 1128A and 1128B [*42 USCS §§ 1320a-7a*, *1320a-7b*], the term "State health care program" means--
(1) a State plan approved under title XIX [*42 USCS §§ 1396* et seq.],
(2) any program receiving funds under title V [*42 USCS §§ 701* et seq.] or from an allotment to a State under such title,
(3) any program receiving funds under subtitle 1 of title XX [*42 USCS §§ 1397* et seq.] or from an allotment to a State under such subtitle, or
(4) a State child health plan approved under title XXI [*42 USCS §§ 1397aa* et seq.].

(i) "Convicted" defined. For purposes of subsections (a) and (b), an individual or entity is considered to have been "convicted" of a criminal offense--
(1) when a judgment of conviction has been entered against the individual or entity by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;
(2) when there has been a finding of guilt against the individual or entity by a Federal, State, or local court;
(3) when a plea of guilty or nolo contendere by the individual or entity has been accepted by a Federal, State, or local court; or
(4) when the individual or entity has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

(j) Definition of immediate family member and member of household. For purposes of subsection (b)(8)(A)(iii):
(1) The term "immediate family member" means, with respect to a person--
(A) the husband or wife of the person;
(B) the natural or adoptive parent, child, or sibling of the person;
(C) the stepparent, stepchild, stepbrother, or stepsister of the person;
(D) the father-, mother-, daughter-, son-, brother-, or sister-in-law of the person;
(E) the grandparent or grandchild of the person; and
(F) the spouse of a grandparent or grandchild of the person.
(2) The term "member of the household" means, with respect to any person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roomer or boarder.

42 USCS § 1320a-7a: Civil Monetary Penalties

(a) Improperly filed claims. Any person (including an organization, agency, or other entity, but excluding a beneficiary, as defined in subsection (i)(5)) that--
(1) knowingly presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (i)(1)), a claim (as defined in subsection (i)(2)) that the Secretary determines--
(A) is for a medical or other item or service that the person knows or should know was not provided as claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,
(B) is for a medical or other item or service and the person knows or should know the claim is false or fraudulent,
(C) is presented for a physician's service (or an item or service incident to a physician's service) by a person who knows or should know that the individual who furnished (or supervised the furnishing of) the service--
(i) was not licensed as a physician,
(ii) was licensed as a physician, but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing), or

(iii) represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified,
(D) is for a medical or other item or service furnished during a period in which the person was excluded from the Federal health care program (as defined in section 1128B(f) [42 USCS § 1320a-7b(f)]) under which the claim was made pursuant to Federal law. [, or]
(E) is for a pattern of medical or other items or services that a person knows or should know are not medically necessary;
(2) knowingly presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii) [42 USCS § 1395u(b)(3)(B)(ii)], or (B) an agreement with a State agency (or other requirement of a State plan under title XIX [42 USCS §§ 1396 et seq.]) not to charge a person for an item or service in excess of the amount permitted to be charged, or (C) an agreement to be a participating physician or supplier under section 1842(h)(1) [42 USCS § 1395u(h)(1)], or (D) an agreement pursuant to section 1866(a)(1)(G) [42 USCS § 1395cc(a)(1)(G)];
(3) knowingly gives or causes to be given to any person, with respect to coverage under title XVIII [42 USCS §§ 1395 et seq.] of inpatient hospital services subject to the provisions of section 1886 [42 USCS § 1395ww], information that he knows or has reason to know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or another individual from the hospital;
(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII [42 USCS §§ 1395 et seq.] or a State health care program in accordance with this subsection or under section 1128 [42 USCS § 1320a-7] and who, at the time of a violation of this subsection--
(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII [42 USCS §§ 1395 et seq.] or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or
(B) is an officer or managing employee (as defined in section 1126(b) [42 USCS § 1320a-5(b)]) of such an entity;
(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act [42 USCS §§ 1395 et seq.], or under a State health care program (as defined in section 1128(h) [42 USCS § 1320a-7(h)]) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII [42 USCS §§ 1395 et seq.], or a State health care program (as so defined);
(6) arranges or contracts (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program (as defined in section 1128B(f) [42 USCS § 1320a-7b(f)]), for the provision of items or services for which payment may be made under such a program;
(7) commits an act described in paragraph (1) or (2) of section 1128B(b) [42 USCS § 1320a-7b(b)];
(8) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim for payment for items and services furnished under a Federal health care program; [or]
(9) fails to grant timely access, upon reasonable request (as defined by the Secretary in regulations), to the Inspector General of the Department of Health and Human Services, for the purpose of audits, investigations, evaluations, or other statutory functions of the Inspector General of the Department of Health and Human Services;
[(10)] (8) orders or prescribes a medical or other item or service during a period in which the person was excluded from a Federal health care program (as so defined), in the case where the person knows or should know that a claim for such medical or other item or service will be made under such a program;
[(11)] (9) knowingly makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, bid, or contract to participate or enroll as a provider of services or a supplier under a Federal health care program (as so defined), including Medicare Advantage organizations under part C of title XVIII [42 USCS §§ 1395w-21 et seq.], prescription drug plan sponsors under part D of title XVIII [42 USCS §§ 1395w-101 et seq.], Medicaid managed care organizations under title XIX [42 USCS §§ 1396 et seq.], and entities that apply to participate as providers of services or suppliers in such managed care organizations and such plans; [or]
[(12)] (10) knows of an overpayment (as defined in paragraph (4) of section 1128J(d) [42 USCS § 1320a-7k(d)]) and does not report and return the overpayment in accordance with such section;

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $ 20,000 for each item or service (or, in cases under paragraph (3), $ 30,000 for each individual with respect to whom false or misleading information was given; in cases under paragraph (4), $ 20,000 for each day the prohibited relationship occurs; in cases under paragraph (7), $ 100,000 for each such act,[;] in cases under paragraph (8), $ 100,000 for each false record or statement,[;] [or] in cases under paragraph (9), $ 30,000 for each day of the failure described in such paragraph); or in cases under paragraph (9) [paragraph [(11)](9)], $ 100,000 for each false statement or misrepresentation of a material fact). In addition, such a person shall be subject to an assessment of not more than 3 times the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim (or, in cases under paragraph (7), damages of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose; or in cases under paragraph (9) [paragraph [(11)](9)], an assessment of not more than 3 times the total amount claimed for each item or service for which payment was made based upon the application containing the false statement or misrepresentation of a material fact). In addition the Secretary may make a determination in the same proceeding to exclude the person from participation in the Federal health care programs (as defined in section 1128B(f)(1) [42 USCS § 1320a-7b(f)(1)]) and to direct the appropriate State agency to exclude the person from participation in any State health care program.

(b) Payments to induce reduction or limitation of services.
(1) If a hospital or a critical access hospital knowingly makes a payment, directly or indirectly, to a physician as an inducement to reduce or limit medically necessary services provided with respect to individuals who--
(A) are entitled to benefits under part A or part B of title XVIII [42 USCS §§ 1395c et seq., 1395j et seq] or to medical assistance under a State plan approved under title XIX [42 USCS §§ 1396 et seq.], and
(B) are under the direct care of the physician,
the hospital or a critical access hospital shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $ 5,000 for each such individual with respect to whom the payment is made.
(2) Any physician who knowingly accepts receipt of a payment described in paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $ 5,000 for each individual described in such paragraph with respect to whom the payment is made.
(3) (A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of--

(i) $ 10,000, or
(ii) three times the amount of the payments under title XVIII [42 USCS §§ 1395 et seq.] for home health services which are made pursuant to such certification.
(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII [42 USCS §§ 1395 et seq.], that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) [42 USCS § 1395f(a)(2)(C) or 1395n(a)(2)(A)] in the case of home health services furnished to the individual.

(c) Initiation of proceeding; authorization by Attorney General, notice, etc., estoppel, failure to comply with order or procedure.
(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty, assessment, or exclusion under subsection (a) or (b) only as authorized by the Attorney General pursuant to procedures agreed upon by them. The Secretary may not initiate an action under this section with respect to any claim, request for payment, or other occurrence described in this section later than six years after the date the claim was presented, the request for payment was made, or the occurrence took place. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.
(2) The Secretary shall not make a determination adverse to any person under subsection (a) or (b) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.
(3) In a proceeding under subsection (a) or (b) which--
(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal crime charging fraud or false statements, and
(B) involves the same transaction as in the criminal action,
the person is estopped from denying the essential elements of the criminal offense.
(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include--
(A) in the case of refusal to provide or permit discovery, drawing negative factual inferences or treating such refusal as an admission by deeming the matter, or certain facts, to be established,
(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense,
(C) striking pleadings, in whole or in part,
(D) staying the proceedings,
(E) dismissal of the action,
(F) entering a default judgment,
(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct, and
(H) refusing to consider any motion or other action which is not filed in a timely manner.

(d) Amount or scope of penalty, assessment, or exclusion. In determining the amount or scope of any penalty, assessment, or exclusion imposed pursuant to subsection (a) or (b), the Secretary shall take into account--
(1) the nature of claims and the circumstances under which they were presented,
(2) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and
(3) such other matters as justice may require.

(e) Review by courts of appeals. Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the claim or specified claim was presented, by filing in such court (within sixty days following the date the person is notified of the Secretary's determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the Court [court] the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, expect that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

(f) Compromise of penalties and assessments; recovery; use of funds recovered. Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim or specified claim (as defined in subsection (r)) was presented, or where the claimant (or, with respect to a person described in subsection (o), the person) resides, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

(1) (A) In the case of amounts recovered arising out of a claim under title XIX [42 USCS §§ 1396 et seq.], there shall be paid to the State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.
(B) In the case of amounts recovered arising out of a claim under an allotment to a State under title V [42 USCS §§ 701 et seq.], there shall be paid to the State agency an amount equal to three-sevenths of the amount recovered.
(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 [42 USCS §§ 1395i, 1395t] shall be repaid to such trust funds.
(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f) [42 USCS § 1320a-7b(f)]), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Portability and Accountability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) [42 USCS § 1395i(k)(2)(C)].
(4) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

The amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency (or, in the case of a penalty or assessment under subsection (o), by a specified State agency (as defined in subsection (q)(6)), to the person against whom the penalty or assessment has been assessed.

(g) Finality of determination respecting penalty, assessment, or exclusion. A determination by the Secretary to impose a penalty, assessment, or exclusion under subsection (a) or (b) shall be final upon the expiration of the sixty-day period referred to in subsection (e). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (e) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment assessed under this section.

(h) Notification of appropriate entities of finality of determination. Whenever the Secretary's determination to impose a penalty, assessment, or exclusion under subsection (a) or (b) becomes final, he shall notify the appropriate State or local medical or professional organization, the appropriate State agency or agencies administering or supervising the administration of State health care programs (as defined in section 1128(h) [42 USCS § 1320a-7(h)]), and the appropriate utilization and quality control peer review organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33) [42 USCS §§ 1395aa(a), 1396a(a)(33)]) that such a penalty or assessment has become final and the reasons therefor.

(i) Definitions. For the purposes of this section:
(1) The term "State agency" means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act [42 USCS §§ 1396 et seq.] or designated to administer the State's program under title V or subtitle 1 of title XX of this Act [42 USCS §§ 701 et seq. or 1397 et seq.].
(2) The term "claim" means an application for payments for items and services under a Federal health care program (as defined in section 1128B(f) [42 USCS § 1320a-7b(f)]).
(3) The term "item or service" includes (A) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (B) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim.
(4) The term "agency of the United States" includes any contractor acting as a fiscal intermediary, carrier, or fiscal agent or any other claims processing agent for a Federal health care program (as so defined).
(5) The term "beneficiary" means an individual who is eligible to receive items or services for which payment may be made under a Federal health care program (as so defined) but does not include a provider, supplier, or practitioner.
(6) The term "remuneration" includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term "remuneration" does not include--
(A) the waiver of coinsurance and deductible amounts by a person, if--
(i) the waiver is not offered as part of any advertisement or solicitation;
(ii) the person does not routinely waive coinsurance or deductible amounts; and
(iii) the person--
(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need; or
(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts;
(B) subject to subsection (n), any permissible practice described in any subparagraph of section 1128B(b)(3) [42 USCS § 1320a-7b(b)(3)] or in regulations issued by the Secretary;
(C) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 [enacted Aug. 21, 1996];
(D) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated;
(E) a reduction in the copayment amount for covered OPD services under section 1833(t)(5)(B); [or]
(F) any other remuneration which promotes access to care and poses a low risk of harm to patients and Federal health care programs (as defined in section 1128B(f) [42 USCS § 1320a-7b(f)] and designated by the Secretary under regulations);
(G) the offer or transfer of items or services for free or less than fair market value by a person, if--
(i) the items or services consist of coupons, rebates, or other rewards from a retailer;
(ii) the items or services are offered or transferred on equal terms available to the general public, regardless of health insurance status; and

(iii) the offer or transfer of the items or services is not tied to the provision of other items or services reimbursed in whole or in part by the program under title XVIII [42 USCS §§ 1395 et seq.] or a State health care program (as defined in section 1128(h) [42 USCS § 1320a-7(h)]);
(H) the offer or transfer of items or services for free or less than fair market value by a person, if--
(i) the items or services are not offered as part of any advertisement or solicitation;
(ii) the items or services are not tied to the provision of other services reimbursed in whole or in part by the program under title XVIII [42 USCS §§ 1395 et seq.] or a State health care program (as so defined);
(iii) there is a reasonable connection between the items or services and the medical care of the individual; and
(iv) the person provides the items or services after determining in good faith that the individual is in financial need;
(I) effective on a date specified by the Secretary (but not earlier than January 1, 2011), the waiver by a PDP sponsor of a prescription drug plan under part D of title XVIII [42 USCS §§ 1395w-101 et seq.] or an MA organization offering an MA-PD plan under part C of such title [42 USCS §§ 1395w-21 et seq.] of any copayment for the first fill of a covered part D drug (as defined in section 1860D-2(e) [42 USCS § 1395w-102(e)]) that is a generic drug for individuals enrolled in the prescription drug plan or MA-PD plan, respectively; or
(J) the provision of telehealth technologies (as defined by the Secretary) on or after January 1, 2019, by a provider of services or a renal dialysis facility (as such terms are defined for purposes of title XVIII [42 USCS §§ 1395 et seq.]) to an individual with end stage renal disease who is receiving home dialysis for which payment is being made under part B of such title [42 USCS §§ 1395j et seq.], if--
(i) the telehealth technologies are not offered as part of any advertisement or solicitation;
(ii) the telehealth technologies are provided for the purpose of furnishing telehealth services related to the individual's end stage renal disease; and
(iii) the provision of the telehealth technologies meets any other requirements set forth in regulations promulgated by the Secretary.
(7) The term "should know" means that a person, with respect to information--
(A) acts in deliberate ignorance of the truth or falsity of the information; or
(B) acts in reckless disregard of the truth or falsity of the information,
and no proof of specific intent to defraud is required.

(j) Subpoenas.
(1) The provisions of subsections (d) and (e) of section 205 [42 USCS § 405(d), (e)] shall apply with respect to this section to the same extent as they are applicable with respect to title II [42 USCS §§ 401 et seq.]. The Secretary may delegate the authority granted by section 205(d) [42 USCS § 405(d)] (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.
(2) The Secretary may delegate authority granted under this section and under section 1128 [42 USCS § 1320a-7] to the Inspector General of the Department of Health and Human Services.

(k) Injunctions. Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty if any such penalty were to be imposed or to seek other appropriate relief.

(l) Liability of principal for acts of agent. A principal is liable for penalties, assessments, and an exclusion under this section for the actions of the principal's agent acting within the scope of the agency.

(m) Claims within jurisdiction of other departments or agencies.
(1) For purposes of this section, with respect to a Federal health care program not contained in this Act [42 USCS §§ 301 et seq.], references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.
(2) (A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:
(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.
(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.
(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under chapter 4 of title 5, United States Code with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.

(n) Safe harbor for payment of medigap premiums.
(1) Subparagraph (B) of subsection (i)(6) shall not apply to a practice described in paragraph (2) unless--
(A) the Secretary, through the Inspector General of the Department of Health and Human Services, promulgates a rule authorizing such a practice as an exception to remuneration; and
(B) the remuneration is offered or transferred by a person under such rule during the 2-year period beginning on the date the rule is first promulgated.

(2) A practice described in this paragraph [subsection] is a practice under which a health care provider or facility pays, in whole or in part, premiums for medicare supplemental policies for individuals entitled to benefits under part A of title XVIII [42 USCS §§ 1395c et seq.] pursuant to section 226A [42 USCS § 426-1].

(o) Any person (including an organization, agency, or other entity, but excluding a program beneficiary, as defined in subsection (q)(4)) that, with respect to a grant, contract, or other agreement for which the Secretary provides funding--
(1) knowingly presents or causes to be presented a specified claim (as defined in subsection (r)) under such grant, contract, or other agreement that the person knows or should know is false or fraudulent;
(2) knowingly makes, uses, or causes to be made or used any false statement, omission, or misrepresentation of a material fact in any application, proposal, bid, progress report, or other document that is required to be submitted in order to directly or indirectly receive or retain funds provided in whole or in part by such Secretary pursuant to such grant, contract, or other agreement;
(3) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent specified claim under such grant, contract, or other agreement;
(4) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation (as defined in subsection (s)) to pay or transmit funds or property to such Secretary with respect to such grant, contract, or other agreement, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit funds or property to such Secretary with respect to such grant, contract, or other agreement; or
(5) fails to grant timely access, upon reasonable request (as defined by such Secretary in regulations), to the Inspector General of the Department, for the purpose of audits, investigations, evaluations, or other statutory functions of such Inspector General in matters involving such grants, contracts, or other agreements;

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty in cases under paragraph (1), of not more than $ 10,000 for each specified claim; in cases under paragraph (2), not more than $ 50,000 for each false statement, omission, or misrepresentation of a material fact; in cases under paragraph (3), not more than $ 50,000 for each false record or statement; in cases under paragraph (4), not more than $ 50,000 for each false record or statement or $ 10,000 for each day that the person knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay; or in cases under paragraph (5), not more than $ 15,000 for each day of the failure described in such paragraph. In addition, in cases under paragraphs (1) and (3), such a person shall be subject to an assessment of not more than 3 times the amount claimed in the specified claim described in such paragraph in lieu of damages sustained by the United States or a specified State agency because of such specified claim, and in cases under paragraphs (2) and (4), such a person shall be subject to an assessment of not more than 3 times the total amount of the funds described in paragraph (2) or (4), respectively (or, in the case of an obligation to transmit property to the Secretary described in paragraph (4), of the value of the property described in such paragraph) in lieu of damages sustained by the United States or a specified State agency because of such case. In addition, the Secretary may make a determination in the same proceeding to exclude the person from participation in the Federal health care programs (as defined in section 1128B(f)(1) [42 USCS § 1320a-7b(f)(1)]) and to direct the appropriate State agency to exclude the person from participation in any State health care program.

(p) The provisions of subsections (c), (d), (g), and (h) shall apply to a civil money penalty or assessment under subsection (o) in the same manner as such provisions apply to a penalty, assessment, or proceeding under subsection (a). In applying subsection (d), each reference to a claim under such subsection shall be treated as including a reference to a specified claim (as defined in subsection (r)).

(q) For purposes of this subsection and subsections (o) and (p):
(1) The term "Department" means the Department of Health and Human Services.
(2) The term "material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.
(3) The term "other agreement" includes a cooperative agreement, scholarship, fellowship, loan, subsidy, payment for a specified use, donation agreement, award, or subaward (regardless of whether one or more of the persons entering into the agreement is a contractor or subcontractor).
(4) The term "program beneficiary" means, in the case of a grant, contract, or other agreement designed to accomplish the objective of awarding or otherwise furnishing benefits or assistance to individuals and for which the Secretary provides funding, an individual who applies for, or who receives, such benefits or assistance from such grant, contract, or other agreement. Such term does not include, with respect to such grant, contract, or other agreement, an officer, employee, or agent of a person or entity that receives such grant or that enters into such contract or other agreement.
(5) The term "recipient" includes a subrecipient or subcontractor.
(6) The term "specified State agency" means an agency of a State government established or designated to administer or supervise the administration of a grant, contract, or other agreement funded in whole or in part by the Secretary.

(r) For purposes of this section, the term "specified claim" means any application, request, or demand under a grant, contract, or other agreement for money or property, whether or not the United States or a specified State agency has title to the money or property, that is not a claim (as defined in subsection (i)(2)) and that--
(1) is presented or caused to be presented to an officer, employee, or agent of the Department or agency thereof, or of any specified State agency; or
(2) is made to a contractor, grantee, or any other recipient if the money or property is to be spent or used on the Department's behalf or to advance a Department program or interest, and if the Department--
(A) provides or has provided any portion of the money or property requested or demanded; or
(B) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(s) For purposes of subsection (o), the term "obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, for a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

42 USCS § 1320a-7b - Criminal Penalties for Acts Involving Federal Health Care Programs

(a) Making or causing to be made false statements or representations. Whoever--
(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a Federal health care program (as defined in subsection (f)),
(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,
(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized,
(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,
(5) presents or causes to be presented a claim for a physician's service for which payment may be made under a Federal health care program and knows that the individual who furnished the service was not licensed as a physician, or
(6) for a fee knowingly and willfully counsels or assists an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under a State plan under title XIX [42 USCS §§ 1396 et seq.], if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c) [42 USCS § 1396p(c)],

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any other person in connection with the furnishing (by that person) of items or services for which payment is or may be made under the program, be guilty of a felony and upon conviction thereof fined not more than $ 100,000 or imprisoned for not more than 10 years or both, or (ii) in the case of such a statement, representation, concealment, failure, conversion, or provision of counsel or assistance by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $ 20,000 or imprisoned for not more than one year, or both. In addition, in any case where an individual who is otherwise eligible for assistance under a Federal health care program is convicted of an offense under the preceding provisions of this subsection, the administrator of such program may at its option (notwithstanding any other provision of such program) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

(b) Illegal remunerations.
(1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind--
(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or
(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,
shall be guilty of a felony and upon conviction thereof, shall be fined not more than $ 100,000 or imprisoned for not more than 10 years, or both.
(2) Whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person--
(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or
(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,
shall be guilty of a felony and upon conviction thereof, shall be fined not more than $ 100,000 or imprisoned for not more than 10 years, or both.
(3) Paragraphs (1) and (2) shall not apply to--
(A) a discount or other reduction in price obtained by a provider of services or other entity under a Federal health care program if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under a Federal health care program;
(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services;
(C) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under a Federal health care program if--
(i) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such individual or entity under the contract, and
(ii) in the case of an entity that is a provider of services (as defined in section 1861(u) [42 USCS § 1395x(u)]), the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity;
(D) a waiver of any coinsurance under part B of title XVIII [42 USCS §§ 1395j et seq.] by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act;
(E) any payment practice specified by the Secretary in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 [note to this section] or in regulations under section 1860D-3(e)(6) [1860D-4(e)(6)] [42 USCS § 1395w-104(e)(6)];
(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 [42 USCS § 1395mm] or if the written agreement, through a risk-sharing arrangement, places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide;

(G) the waiver or reduction by pharmacies (including pharmacies of the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations) of any cost-sharing imposed under part D of title XVIII [42 USCS §§ 1395w-101 et seq.], if the conditions described in clauses (i) through (iii) of section 1128A(i)(6)(A) [42 USCS § 1320a-7a(i)(6)(A)] are met with respect to the waiver or reduction (except that, in the case of such a waiver or reduction on behalf of a subsidy eligible individual (as defined in section 1860D-14(a)(3) [42 USCS § 1395w-114(a)(3)]), section 1128A(i)(6)(A) [42 USCS § 1320a-7a(i)(6)(A)] shall be applied without regard to clauses (ii) and (iii) of that section);
(H) any remuneration between a federally qualified health center (or an entity controlled by such a health center) and an MA organization pursuant to a written agreement described in section 1853(a)(4) [42 USCS § 1395w-23(a)(4)];
(I) any remuneration between a health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) [42 USCS § 1396d(l)(2)(B)] and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity;
(J) a discount in the price of an applicable drug (as defined in paragraph (2) of section 1860D-14A(g) [42 USCS § 1395w-114a(g)]) of a manufacturer that is furnished to an applicable beneficiary (as defined in paragraph (1) of such section) under the Medicare coverage gap discount program under section 1860D-14A [42 USCS § 1395w-114a]; and
(K) an incentive payment made to a Medicare fee-for-service beneficiary by an ACO under an ACO Beneficiary Incentive Program established under subsection (m) of section 1899 [42 USCS § 1395jjj(m)], if the payment is made in accordance with the requirements of such subsection and meets such other conditions as the Secretary may establish.
(4) Whoever without lawful authority knowingly and willfully purchases, sells or distributes, or arranges for the purchase, sale, or distribution of a beneficiary identification number or unique health identifier for a health care provider under title XVIII, title XIX, or title XXI [42 USCS §§ 1395 et seq., 1396 et seq., 1397aa et seq.] shall be imprisoned for not more than 10 years or fined not more than $ 500,000 ($ 1,000,000 in the case of a corporation), or both.

(c) False statements or representations with respect to condition or operation of institutions. Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution, facility, or entity in order that such institution, facility, or entity may qualify (either upon initial certification or upon recertification) as a hospital, critical access hospital, skilled nursing facility, nursing facility, intermediate care facility for the mentally retarded, home health agency, or other entity (including an eligible organization under section 1876(b) [42 USCS § 1395mm(b)]) for which certification is required under title XVIII [42 USCS §§ 1395 et seq.] or a State health care program (as defined in section 1128(h) [42 USCS § 1320a-7(h)]), or with respect to information required to be provided under section 1124A [42 USCS § 1320a-3a], shall be guilty of a felony and upon conviction thereof shall be fined not more than $ 100,000 or imprisoned for not more than 10 years, or both.

(d) Illegal patient admittance and retention practices. Whoever knowingly and willfully--
(1) charges, for any service provided to a patient under a State plan approved under title XIX [42 USCS §§ 1396 et seq.], money or other consideration at a rate in excess of the rates established by the State (or, in the case of services provided to an individual enrolled with a medicaid managed care organization under title XIX under a contract under section 1903(m) [42 USCS § 1396b(m)] or under a contractual, referral, or other arrangement under such contract, at a rate in excess of the rate permitted under such contract), or
(2) charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under a State plan approved under title XIX [42 USCS §§ 1396 et seq.], any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)--
(A) as a precondition of admitting a patient to a hospital, nursing facility, or intermediate care facility for the mentally retarded, or
(B) as a requirement for the patient's continued stay in such a facility,
when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and upon conviction thereof shall be fined not more than $ 100,000 or imprisoned for not more than 10 years, or both.

(e) Violation of assignment terms. Whoever accepts assignments described in section 1842(b)(3)(B)(ii) [42 USCS § 1395u(b)(3)(B)(ii)] or agrees to be a participating physician or supplier under section 1842(h)(1) [42 USCS § 1395a(h)(1)] and knowingly, willfully, and repeatedly violates the term of such assignments or agreement, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $ 4,000 or imprisoned for not more than six months, or both.
(f) "Federal health care program" defined. For purposes of this section, the term "Federal health care program" means--
(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code [5 USCS §§ 8901 et seq.]); or
(2) any State health care program, as defined in section 1128(h) [42 USCS § 1320a-7(h)].

(g) Liability under subchapter III of chapter 37 of title 31. In addition to the penalties provided for in this section or section 1128A [42 USCS § 1320a-7a], a claim that includes items or services resulting from a violation of this section constitutes a false or fraudulent claim for purposes of subchapter III of chapter 37 of title 31, United States Code [31 USCS §§ 3721 et seq.].

(h) Actual knowledge or specific intent not required. With respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 13939

<July 24, 2020, *85 F.R. 45759*>

Lowering Prices for Patients by Eliminating Kickbacks to Middlemen

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. One of the reasons pharmaceutical drug prices in the United States are so high is because of the complex mix of payers and negotiators that often separates the consumer from the manufacturer in the drug-purchasing process. The result is that the prices patients see at the point-of-sale do not reflect the prices that the patient's insurance companies, and middlemen hired by the insurance companies, actually pay for drugs. Instead, these middlemen health plan sponsors and pharmacy benefit managers (PBMs) negotiate significant discounts off of the list prices, sometimes up to 50 percent of the cost of the drug. Medicare patients, whose cost sharing is typically based on list prices, pay more than they should for drugs while the middlemen collect large "rebate" checks. These rebates are the functional equivalent of kickbacks, and erode savings that could otherwise go to the Medicare patients taking those drugs. Yet currently, Federal regulations create a safe harbor for such discounts and preclude treating them as kickbacks under the law. Fixing this problem could save Medicare patients billions of dollars. The Office of the Inspector General at the Department of Health and Human Services has found that patients in the catastrophic phase of the Medicare Part D program saw their out-of-pocket costs for high-price drugs increase by 47 percent from 2010 to 2015, from $175 per month to $257 per month. Narrowing the safe harbor for these discounts under the anti-kickback statute will allow tens of billions in dollars of rebates on prescription drugs in the Medicare Part D program to go directly to patients, saving many patients hundreds or thousands of dollars per year at the pharmacy counter.

Sec. 2. Policy. It is the policy of the United States that discounts offered on prescription drugs should be passed on to patients.

Sec. 3. Directing Drug Rebates to Patients Instead of Middlemen. The Secretary of Health and Human Services shall complete the rulemaking process he commenced seeking to:

(a) exclude from safe harbor protections under the anti-kickback statute, section 1128B(b) of the Social Security Act, 42 U.S.C. 1320a-7b, certain retrospective reductions in price that are not applied at the point-of-sale or other remuneration that drug manufacturers provide to health plan sponsors, pharmacies, or PBMs in operating the Medicare Part D program; and

(b) establish new safe harbors that would permit health plan sponsors, pharmacies, and PBMs to apply discounts at the patient's point-of-sale in order to lower the patient's out-of-pocket costs, and that would permit the use of certain bona fide PBM service fees.

Sec. 4. Protecting Low Premiums. Prior to taking action under section 3 of this order, the Secretary of Health and Human Services shall confirm and make public such confirmation that the action is not projected to increase Federal spending, Medicare beneficiary premiums, or patients' total out-of-pocket costs.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

[31 USCS § 3801 - 31 USCS § 3812] - ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

http://uscode.house.gov/view.xhtml?path=/prelim@title31/subtitle3/chapter38&edition=prelim

Definitions

(a) For purposes of this chapter [*31 USCS §§ 3801* et seq.]--

(1) "authority" means--
- (A) an executive department;
- (B) a military department;
- (C) an establishment (as such term is defined in section 11(2) of the Inspector General Act of 1978) which is not an executive department;
- (D) the United States Postal Service;
- (E) the National Science Foundation; and
- (F) a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978);

(2) "authority head" means--
- (A) the head of an authority; or
- (B) an official or employee of the authority designated, in regulations promulgated by the head of the authority, to act on behalf of the head of the authority;

(3) "claim" means any request, demand, or submission--
(A) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits);
(B) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority--
(i) for property or services if the United States--
(I) provided such property or services;
(II) provided any portion of the funds for the purchase of such property or services; or
(III) will reimburse such recipient or party for the purchase of such property or services; or
(ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States--
(I) provided any portion of the money requested or demanded; or
(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or
(C) made to an authority which has the effect of decreasing an obligation to pay or account for property, services, or money,
except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1954 [Internal Revenue Code of 1986] [*26 USCS §§ 1* et seq.];
(4) "investigating official" means an individual who--
(A) (i) in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, is the Inspector General of that authority or an officer or employee of such Office designated by the Inspector General;
(ii) in the case of an authority in which an Office of Inspector General is not established by the Inspector General Act of 1978 or by any other Federal law, is an officer or employee of the authority designated by the authority head to conduct investigations under section 3803(a)(1) of this *title [31 USCS § 3803(a)(1)]*; or
(iii) in the case of a military department, is the Inspector General of the Department of Defense or an officer or employee of the Office of Inspector General of the Department of Defense who is designated by the Inspector General; and
(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O-7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule;
(5) "knows or has reason to know", for purposes of establishing liability under section 3802 [*31 USCS § 3802*], means that a person, with respect to a claim or statement--
(A) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;
(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or
(C) acts in reckless disregard of the truth or falsity of the claim or statement,
and no proof of specific intent to defraud is required;
(6) "person" means any individual, partnership, corporation, association, or private organization;
(7) "presiding officer" means--
(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 [*5 USCS §§ 551* et seq.] apply, an administrative law judge appointed in the authority pursuant to section 3105 of such *title [5 USCS § 3105]* or detailed to the authority pursuant to section 3344 of such *title [5 USCS § 3344]*; or
(B) in the case of an authority to which the provisions of such subchapter do not apply, an officer or employee of the authority who--
(i) is selected under chapter 33 of title 5 [*5 USCS §§ 3301* et seq.] pursuant to the competitive examination process applicable to administrative law judges;
(ii) is appointed by the authority head to conduct hearings under section 3803 of this *title [31 USCS § 3803]*;
(iii) is assigned to cases in rotation so far as practicable;
(iv) may not perform duties inconsistent with the duties and responsibilities of a presiding officer;
(v) is entitled to pay prescribed by the Office of Personnel Management independently of ratings and recommendations made by the authority and in accordance with chapter 51 of such *title [5 USCS §§ 5101* et seq.] and subchapter III of chapter 53 of such *title [5 USCS §§ 5331* et seq.];
(vi) is not subject to performance appraisal pursuant to chapter 43 of such *title [5 USCS §§ 4301* et seq.]; and
(vii) may be removed, suspended, furloughed, or reduced in grade or pay only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing by such Board;
(8) "reviewing official" means any officer or employee of an authority--
(A) who is designated by the authority head to make the determination required under section 3803(a)(2) of this *title [31 USCS § 3803(a)(2)]*;
(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O-7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule; and
(C) who is--
(i) not subject to supervision by, or required to report to, the investigating official; and
(ii) not employed in the organizational unit of the authority in which the investigating official is employed; and

(9) "statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made--
(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or
(B) with respect to (including relating to eligibility for)--
(i) a contract with, or a bid or proposal for a contract with; or
(ii) a grant, loan, or benefit from,
an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit,
except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1954 [Internal Revenue Code of 1986] [*26 USCS §§ 1* et seq.].

(b) For purposes of paragraph (3) of subsection (a)--

1. each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim;
2. each claim for property, services, or money is subject to this chapter [*31 USCS §§ 3801* et seq.] regardless of whether such property, services, or money is actually delivered or paid; and
3. a claim shall be considered made, presented, or submitted to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(c) For purposes of paragraph (9) of subsection (a)--

1. each written representation, certification, or affirmation constitutes a separate statement; and
2. a statement shall be considered made, presented, or submitted to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

31 USCS § 3802 - False claims and statements; liability

(a) **[Caution: For inflation-adjusted civil monetary penalties**, see *28 CFR 85.3*.]
(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know--
(A) is false, fictitious, or fraudulent;
(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
(C) includes or is supported by any written statement that--
(i) omits a material fact;
(ii) is false, fictitious, or fraudulent as a result of such omission; and
(iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
(D) is for payment for the provision of property or services which the person has not provided as claimed,
shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $ 5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter [*31 USCS §§ 3801* et seq.] to be in violation of the preceding sentence.
(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that--
(A) the person knows or has reason to know--
(i) asserts a material fact which is false, fictitious, or fraudulent; or
(ii)
(I) omits a material fact; and
(II) is false, fictitious, or fraudulent as a result of such omission;
(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and
(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,
shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $ 5,000 for each such statement.
(3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection--

(A) a determination under section 3803(a)(2) of this *title [31 USCS § 3803(a)(2)]* that there is adequate evidence to believe that a person is liable under subsection (a) of this section; or
(B) a determination under section 3803 of this *title [31 USCS § 3803]* that a person is liable under subsection (a) of this section,
may provide the authority with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under this chapter [*31 USCS §§ 3801* et seq.].
(2) A determination referred to in paragraph (1) of this subsection may be used by the authority, but shall not require such authority, to commence any administrative or contractual action which is authorized by law.
(3) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, a determination referred to in paragraph (1) of this subsection shall not be considered as a conclusive determination of such person's responsibility pursuant to Federal procurement laws and regulations.

42 USCS § 1395nn - Limitation on Certain Physician Referrals

(a) Prohibition of certain referrals.
(1) In general. Except as provided in subsection (b), if a physician (or an immediate family member of such physician) has a financial relationship with an entity specified in paragraph (2), then--
(A) the physician may not make a referral to the entity for the furnishing of designated health services for which payment otherwise may be made under this title [42 USCS §§ 1395 et seq.], and
(B) the entity may not present or cause to be presented a claim under this title [42 USCS §§ 1395 et seq.] or bill to any individual, third party payor, or other entity for designated health services furnished pursuant to a referral prohibited under subparagraph (A).
(2) Financial relationship specified. For purposes of this section, a financial relationship of a physician (or an immediate family member of such physician) with an entity specified in this paragraph is--
(A) except as provided in subsections (c) and (d), an ownership or investment interest in the entity, or
(B) except as provided in subsection (e), a compensation arrangement (as defined in subsection (h)(1)) between the physician (or an immediate family member of such physician) and the entity.
An ownership or investment interest described in subparagraph (A) may be through equity, debt, or other means and includes an interest in an entity that holds an ownership or investment interest in any entity providing the designated health service.

b) **General exceptions to both ownership and compensation arrangement prohibitions**. Subsection (a)(1) shall not apply in the following cases:
(1) Physicians' services. In the case of physicians' services (as defined in section 1861(q) [42 USCS § 1395x(q)]) provided personally by (or under the personal supervision of) another physician in the same group practice (as defined in subsection (h)(4)) as the referring physician.
(2) In-office ancillary services. In the case of services (other than durable medical equipment (excluding infusion pumps) and parenteral and enteral nutrients, equipment, and supplies)--
(A) that are furnished--
(i) personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are directly supervised by the physician or by another physician in the group practice, and
(ii) (I) in a building in which the referring physician (or another physician who is a member of the same group practice) furnishes physicians' services unrelated to the furnishing of designated health services, or
(II) in the case of a referring physician who is a member of a group practice, in another building which is used by the group practice--
(aa) for the provision of some or all of the group's clinical laboratory services, or
(bb) for the centralized provision of the group's designated health services (other than clinical laboratory services),
unless the Secretary determines other terms and conditions under which the provision of such services does not present a risk of program or patient abuse, and
(B) that are billed by the physician performing or supervising the services, by a group practice of which such physician is a member under a billing number assigned to the group practice, or by an entity that is wholly owned by such physician or such group practice,
if the ownership or investment interest in such services meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse. Such requirements shall, with respect to magnetic resonance imaging, computed tomography, positron emission tomography, and any other designated health services specified under subsection (h)(6)(D) that the Secretary determines appropriate, include a requirement that the referring physician inform the individual in writing at the time of the referral that the individual may obtain the services for which the individual is being referred from a person other than a person described in subparagraph (A)(i) and provide such individual with a written list of suppliers (as defined in section 1861(d) [42 USCS § 1395x(d)]) who furnish such services in the area in which such individual resides.
(3) Prepaid plans. In the case of services furnished by an organization--
(A) with a contract under section 1876 [42 USCS § 1395mm] to an individual enrolled with the organization,
(B) described in section 1833(a)(1)(A) [42 USCS § 1395l(a)(1)(A)] to an individual enrolled with the organization,
(C) receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 [42 USCS § 1395b-1(a)] or under section 222(a) of the Social Security Amendments of 1972 [42 USCS § 1395b-1 note], to an individual enrolled with the organization,
(D) that is a qualified health maintenance organization (within the meaning of section 1310(d) of the Public Health Service Act) to an individual enrolled with the organization, or
(E) that is a Medicare + Choice organization under part C [42 USCS §§ 1395w-21 et seq.] that is offering a coordinated care plan described in section 1851(a)(2)(A) [42 USCS § 1395w-21(a)(2)(A)] to an individual enrolled with the organization.
(4) Other permissible exceptions. In the case of any other financial relationship which the Secretary determines, and specifies in regulations, does not pose a risk of program or patient abuse.
(5) Electronic prescribing. An exception established by regulation under section 1860D-3(e)(6) [1860D-4(e)(6)] [42 USCS § 1395w-104(e)(6)].

(c) General exception related only to ownership or investment prohibition for ownership in publicly traded securities and mutual funds. Ownership of the following shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A):
(1) Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) which may be purchased on terms generally available to the public and which are--

(A)
(i) securities listed on the New York Stock Exchange, the American Stock Exchange, or any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis, or
(ii) traded under an automated interdealer quotation system operated by the National Association of Securities Dealers, and
(B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous 3 fiscal years, stockholder equity exceeding $ 75,000,000.
(2) Ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986 [26 USCS § 851(a)], if such company had, at the end of the company's most recent fiscal year, or on average during the previous 3 fiscal years, total assets exceeding $ 75,000,000.

(d) Additional exceptions related only to ownership or investment prohibition. The following, if not otherwise excepted under subsection (b), shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A):
(1) Hospitals in Puerto Rico. In the case of designated health services provided by a hospital located in Puerto Rico.
(2) Rural providers. In the case of designated health services furnished in a rural area (as defined in section 1886(d)(2)(D) [42 USCS § 1395ww(d)(2)(D)]) by an entity, if--
(A) substantially all of the designated health services furnished by the entity are furnished to individuals residing in such a rural area;
(B) effective for the 18-month period beginning on the date of the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [enacted Dec. 8, 2003], the entity is not a specialty hospital (as defined in subsection (h)(7)); and
(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).
(3) Hospital ownership. In the case of designated health services provided by a hospital (other than a hospital described in paragraph (1)) if--
(A) the referring physician is authorized to perform services at the hospital;
(B) effective for the 18-month period beginning on the date of the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 [enacted Dec. 8, 2003], the hospital is not a specialty hospital (as defined in subsection (h)(7));
(C) the ownership or investment interest is in the hospital itself (and not merely in a subdivision of the hospital); and
(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.

(e) Exceptions relating to other compensation arrangements. The following shall not be considered to be a compensation arrangement described in subsection (a)(2)(B):
(1) Rental of office space; rental of equipment.
(A) Office space. Payments made by a lessee to a lessor for the use of premises if--
(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,
(ii) the space rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee, except that the lessee may make payments for the use of space consisting of common areas if such payments do not exceed the lessee's pro rata share of expenses for such space based upon the ratio of the space used exclusively by the lessee to the total amount of space (other than common areas) occupied by all persons using such common areas,
(iii) the lease provides for a term of rental or lease for at least 1 year,
(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,
(v) the lease would be commercially reasonable even if no referrals were made between the parties, and
(vi) the lease meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(B) Equipment. Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if--
(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,
(ii) the equipment rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,
(iii) the lease provides for a term of rental or lease of at least 1 year,
(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,
(v) the lease would be commercially reasonable even if no referrals were made between the parties, and
(vi) the lease meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(C) Holdover lease arrangements. In the case of a holdover lease arrangement for the lease of office space or equipment, which immediately follows a lease arrangement described in subparagraph (A) for the use of such office space or subparagraph (B) for the use of such equipment and that expired after a term of at least 1 year, payments made by the lessee to the lessor pursuant to such holdover lease arrangement, if--
(i) the lease arrangement met the conditions of subparagraph (A) for the lease of office space or subparagraph (B) for the use of equipment when the arrangement expired;
(ii) the holdover lease arrangement is on the same terms and conditions as the immediately preceding arrangement; and
(iii) the holdover arrangement continues to satisfy the conditions of subparagraph (A) for the lease of office space or subparagraph (B) for the use of equipment.
(2) Bona fide employment relationships. Any amount paid by an employer to a physician (or an immediate family member of such physician) who has a bona fide employment relationship with the employer for the provision of services if--
(A) the employment is for identifiable services,
(B) the amount of the remuneration under the employment--

(i) is consistent with the fair market value of the services, and
(ii) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician,
(C) the remuneration is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the employer, and
(D) the employment meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
Subparagraph (B)(ii) shall not prohibit the payment of remuneration in the form of a productivity bonus based on services performed personally by the physician (or an immediate family member of such physician).
(3) Personal service arrangements.
(A) In general. Remuneration from an entity under an arrangement (including remuneration for specific physicians' services furnished to a nonprofit blood center) if--
(i) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,
(ii) the arrangement covers all of the services to be provided by the physician (or an immediate family member of such physician) to the entity,
(iii) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,
(iv) the term of the arrangement is for at least 1 year,
(v) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and except in the case of a physician incentive plan described in subparagraph (B), is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,
(vi) the services to be performed under the arrangement do not involve the counseling or promotion or a business arrangement or other activity that violates any State or Federal law, and
(vii) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(B) Physician incentive plan exception.
(i) In general. In the case of a physician incentive plan (as defined in clause (ii)) between a physician and an entity, the compensation may be determined in a manner (through a withhold, capitation, bonus, or otherwise) that takes into account directly or indirectly the volume or value of any referrals or other business generated between the parties, if the plan meets the following requirements:
(I) No specific payment is made directly or indirectly under the plan to a physician or a physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the entity.
(II) In the case of a plan that places a physician or a physician group at substantial financial risk as determined by the Secretary pursuant to section 1876(i)(8)(A)(ii) [42 USCS § 1395mm(i)(8)(A)(ii)], the plan complies with any requirements the Secretary may impose pursuant to such section.
(III) Upon request by the Secretary, the entity provides the Secretary with access to descriptive information regarding the plan, in order to permit the Secretary to determine whether the plan is in compliance with the requirements of this clause.
(ii) Physician incentive plan defined. For purposes of this subparagraph, the term "physician incentive plan" means any compensation arrangement between an entity and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the entity.
(C) Holdover personal service arrangement. In the case of a holdover personal service arrangement, which immediately follows an arrangement described in subparagraph (A) that expired after a term of at least 1 year, remuneration from an entity pursuant to such holdover personal service arrangement, if--
(i) the personal service arrangement met the conditions of subparagraph (A) when the arrangement expired;
(ii) the holdover personal service arrangement is on the same terms and conditions as the immediately preceding arrangement; and
(iii) the holdover arrangement continues to satisfy the conditions of subparagraph (A).
(4) Remuneration unrelated to the provision of designated health services. In the case of remuneration which is provided by a hospital to a physician if such remuneration does not relate to the provision of designated health services.
(5) Physician recruitment. In the case of remuneration which is provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if--
(A) the physician is not required to refer patients to the hospital,
(B) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician, and
(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(6) Isolated transactions. In the case of an isolated financial transaction, such as a one-time sale of property or practice, if--
(A) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to an employer, and
(B) the transaction meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(7) Certain group practice arrangements with a hospital.
[(A)] In general. An arrangement between a hospital and a group under which designated health services are provided by the group but are billed by the hospital if--
(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3) [42 USCS § 1395x(b)(3)],
(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date,
(iii) with respect to the designated health services covered under the arrangement, substantially all of such services furnished to patients of the hospital are furnished by the group under the arrangement,
(iv) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement,
(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,
(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity, and

(vii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(8) Payments by a physician for items and services. Payments made by a physician--
(A) to a laboratory in exchange for the provision of clinical laboratory services, or
(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.

(f) Reporting requirements. Each entity providing covered items or services for which payment may be made under this title [42 USCS §§ 1395 et seq.] shall provide the Secretary with the information concerning the entity's ownership, investment, and compensation arrangements, including--
(1) the covered items and services provided by the entity, and
(2) the names and unique physician identification numbers of all physicians with an ownership or investment interest (as described in subsection (a)(2)(A)), or with a compensation arrangement (as described in subsection (a)(2)(B)), in the entity, or whose immediate relatives have such an ownership or investment interest or who have such a compensation relationship with the entity.
Such information shall be provided in such form, manner, and at such times as the Secretary shall specify. The requirement of this subsection shall not apply to designated health services provided outside the United States or to entities which the Secretary determines provides [provide] services for which payment may be made under this title [42 USCS §§ 1395 et seq.] very infrequently.

(g) **Sanctions**.
(1) Denial of payment. No payment may be made under this title [42 USCS §§ 1395 et seq.] for a designated health service which is provided in violation of subsection (a)(1).
(2) Requiring refunds for certain claims. If a person collects any amounts that were billed in violation of subsection (a)(1), the person shall be liable to the individual for, and shall refund on a timely basis to the individual, any amounts so collected.
(3) Civil money penalty and exclusion for improper claims. Any person that presents or causes to be presented a bill or a claim for a service that such person knows or should know is for a service for which payment may not be made under paragraph (1) or for which a refund has not been made under paragraph (2) shall be subject to a civil money penalty of not more than $ 15,000 for each such service. The provisions of section 1128A [42 USCS § 1320a-7a] (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) [42 USCS § 1320a-7a(a)].
(4) Civil money penalty and exclusion for circumvention schemes. Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement) which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil money penalty of not more than $ 100,000 for each such arrangement or scheme. The provisions of section 1128A [42 USCS § 1320a-7a] (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) [42 USCS § 1320a-7a(a)].
(5) Failure to report information. Any person who is required, but fails, to meet a reporting requirement of subsection (f) is subject to a civil money penalty of not more than $ 10,000 for each day for which reporting is required to have been made. The provisions of section 1128A [42 USCS § 1320a-7a] (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) [42 USCS § 1320a-7a(a)].
(6) Advisory opinions.
(A) In general. The Secretary shall issue written advisory opinions concerning whether a referral relating to designated health services (other than clinical laboratory services) is prohibited under this section. Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.
(B) Application of certain rules. The Secretary shall, to the extent practicable, apply the rules under subsections (b)(3) and (b)(4) and take into account the regulations promulgated under subsection (b)(5) of section 1128D [42 USCS § 1320a-7d(b)(5)] in the issuance of advisory opinions under this paragraph.
(C) Regulations. In order to implement this paragraph in a timely manner, the Secretary may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.
(D) Applicability. This paragraph shall apply to requests for advisory opinions made after the date which is 90 days after the date of the enactment of this paragraph [enacted Aug. 5, 1997] and before the close of the period described in section 1128D(b)(6) [42 USCS § 1320a-7d(b)(6)].

(h) Definitions and special rules. For purposes of this section:
(1) Compensation arrangement; remuneration.
(A) The term "compensation arrangement" means any arrangement involving any remuneration between a physician (or an immediate family member of such physician) and an entity other than an arrangement involving only remuneration described in subparagraph (C).
(B) The term "remuneration" includes any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.
(C) Remuneration described in this subparagraph is any remuneration consisting of any of the following:
(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.
(ii) The provision of items, devices, or supplies that are used solely to--
(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or
(II) order or communicate the results of tests or procedures for such entity.

(iii) A payment made by an insurer or a self-insured plan to a physician to satisfy a claim, submitted on a fee for service basis, for the furnishing of health services by that physician to an individual who is covered by a policy with the insurer or by the self-insured plan, if--
(I) the health services are not furnished, and the payment is not made, pursuant to a contract or other arrangement between the insurer or the plan and the physician,
(II) the payment is made to the physician on behalf of the covered individual and would otherwise be made directly to such individual,
(III) the amount of the payment is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account directly or indirectly the volume or value of any referrals, and
(IV) the payment meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.
(D) Written requirement clarified. In the case of any requirement pursuant to this section for a compensation arrangement to be in writing, such requirement shall be satisfied by such means as determined by the Secretary, including by a collection of documents, including contemporaneous documents evidencing the course of conduct between the parties involved.
(E) Special rule for signature requirements. In the case of any requirement pursuant to this section for a compensation arrangement to be in writing and signed by the parties, such signature requirement shall be met if--
(i) not later than 90 consecutive calendar days immediately following the date on which the compensation arrangement became noncompliant, the parties obtain the required signatures; and
(ii) the compensation arrangement otherwise complies with all criteria of the applicable exception.
(2) Employee. An individual is considered to be "employed by" or an "employee" of an entity if the individual would be considered to be an employee of the entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986 [26 USCS § 3121(d)(2)]).
(3) Fair market value. The term "fair market value" means the value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.
(4) Group practice.
(A) Definition of group practice. The term "group practice" means a group of 2 or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association--
(i) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel,
(ii) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group,
(iii) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined,
(iv) except as provided in subparagraph (B)(i), in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician,
(v) in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice, and
(vi) which meets such other standards as the Secretary may impose by regulation.
(B) Special rules.
(i) Profits and productivity bonuses. A physician in a group practice may be paid a share of overall profits of the group, or a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician.
(ii) Faculty practice plans. In the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, subparagraph (A) shall be applied only with respect to the services provided within the faculty practice plan.
(5) Referral; referring physician.
(A) Physicians' services. Except as provided in subparagraph (C), in the case of an item or service for which payment may be made under part B, the request by a physician for the item or service, including the request by a physician for a consultation with another physician (and any test or procedure ordered by, or to be performed by (or under the supervision of) that other physician), constitutes a "referral" by a "referring physician".
(B) Other items. Except as provided in subparagraph (C), the request or establishment of a plan of care by a physician which includes the provision of the designated health service constitutes a "referral" by a "referring physician".
(C) Clarification respecting certain services integral to a consultation by certain specialists. A request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy, if such services are furnished by (or under the supervision of) such pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician does not constitute a "referral" by a "referring physician".
(6) Designated health services. The term "designated health services" means any of the following items or services:
(A) Clinical laboratory services.
(B) Physical therapy services.
(C) Occupational therapy services.
(D) Radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services.
(E) Radiation therapy services and supplies.
(F) Durable medical equipment and supplies.
(G) Parenteral and enteral nutrients, equipment, and supplies.
(H) Prosthetics, orthotics, and prosthetic devices and supplies.
(I) Home health services.

(J) Outpatient prescription drugs.
(K) Inpatient and outpatient hospital services.
(L) Outpatient speech-language pathology services.
(7) Specialty hospital.
(A) In general. For purposes of this section, except as provided in subparagraph (B), the term "specialty hospital" means a subsection (d) hospital (as defined in section 1886(d)(1)(B) [42 USCS § 1395ww(d)(1)(B)]) that is primarily or exclusively engaged in the care and treatment of one of the following categories:
(i) Patients with a cardiac condition.
(ii) Patients with an orthopedic condition.
(iii) Patients receiving a surgical procedure.
(iv) Any other specialized category of services that the Secretary designates as inconsistent with the purpose of permitting physician ownership and investment interests in a hospital under this section.
(B) Exception. For purposes of this section, the term "specialty hospital" does not include any hospital--
(i) determined by the Secretary--
(I) to be in operation before November 18, 2003; or
(II) under development as of such date;
(ii) for which the number of physician investors at any time on or after such date is no greater than the number of such investors as of such date;
(iii) for which the type of categories described in subparagraph (A) at any time on or after such date is no different than the type of such categories as of such date;
(iv) for which any increase in the number of beds occurs only in the facilities on the main campus of the hospital and does not exceed 50 percent of the number of beds in the hospital as of November 18, 2003, or 5 beds, whichever is greater; and
(v) that meets such other requirements as the Secretary may specify.
(i) Requirements for hospitals to qualify for rural provider and hospital exception to ownership or investment prohibition.
(1) Requirements described. For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:
(A) Provider agreement. The hospital had--
(i) physician ownership or investment on December 31, 2010; and
(ii) a provider agreement under section 1866 [42 USCS § 1395cc] in effect on such date.
(B) Limitation on expansion of facility capacity. Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds for which the hospital is licensed at any time on or after the date of the enactment of this subsection is no greater than the number of operating rooms, procedure rooms, and beds for which the hospital is licensed as of such date.
(C) Preventing conflicts of interest.
(i) The hospital submits to the Secretary an annual report containing a detailed description of--
(I) the identity of each physician owner or investor and any other owners or investors of the hospital; and
(II) the nature and extent of all ownership and investment interests in the hospital.
(ii) The hospital has procedures in place to require that any referring physician owner or investor discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary--
(I) the ownership or investment interest, as applicable, of such referring physician in the hospital; and
(II) if applicable, any such ownership or investment interest of the treating physician.
(iii) The hospital does not condition any physician ownership or investment interests either directly or indirectly on the physician owner or investor making or influencing referrals to the hospital or otherwise generating business for the hospital.
(iv) The hospital discloses the fact that the hospital is partially owned or invested in by physicians--
(I) on any public website for the hospital; and
(II) in any public advertising for the hospital.
(D) Ensuring bona fide investment.
(i) The percentage of the total value of the ownership or investment interests held in the hospital, or in an entity whose assets include the hospital, by physician owners or investors in the aggregate does not exceed such percentage as of the date of enactment of this subsection [enacted March 23, 2010].
(ii) Any ownership or investment interests that the hospital offers to a physician owner or investor are not offered on more favorable terms than the terms offered to a person who is not a physician owner or investor.
(iii) The hospital (or any owner or investor in the hospital) does not directly or indirectly provide loans or financing for any investment in the hospital by a physician owner or investor.
(iv) The hospital (or any owner or investor in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or investor or group of physician owners or investors that is related to acquiring any ownership or investment interest in the hospital.
(v) Ownership or investment returns are distributed to each owner or investor in the hospital in an amount that is directly proportional to the ownership or investment interest of such owner or investor in the hospital.
(vi) Physician owners and investors do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other owners or investors in the hospital or located near the premises of the hospital.

(vii) The hospital does not offer a physician owner or investor the opportunity to purchase or lease any property under the control of the hospital or any other owner or investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner or investor.
(E) Patient safety.
(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient--
(I) the hospital discloses such fact to a patient; and
(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.
(ii) The hospital has the capacity to--
(I) provide assessment and initial treatment for patients; and
(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.
(F) Limitation on application to certain converted facilities. The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection [enacted March 23, 2010].
(2) Publication of information reported. The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.
(3) Exception to prohibition on expansion of facility capacity.
(A) Process.
(i) Establishment. The Secretary shall establish and implement a process under which a hospital that is an applicable hospital (as defined in subparagraph (E)) or is a high Medicaid facility described in subparagraph (F) may apply for an exception from the requirement under paragraph (1)(B).
(ii) Opportunity for community input. The process under clause (i) shall provide individuals and entities in the community in which the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.
(iii) Timing for implementation. The Secretary shall implement the process under clause (i) on February 1, 2012.
(iv) Regulations. Not later than January 1, 2012, the Secretary shall promulgate regulations to carry out the process under clause (i).
(B) Frequency. The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.
(C) Permitted increase.
(i) In general. Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds for which the applicable hospital is licensed above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds for which the hospital is licensed after the application of the most recent increase under such an exception).
(ii) 100 percent increase limitation. The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds for which an applicable hospital is licensed under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds for which the applicable hospital is licensed exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.
(iii) Baseline number of operating rooms, procedure rooms, and beds. In this paragraph, the term "baseline number of operating rooms, procedure rooms, and beds" means the number of operating rooms, procedure rooms, and beds for which the applicable hospital is licensed as of the date of enactment of this subsection [enacted March 23, 2010] (or, in the case of a hospital that did not have a provider agreement in effect as of such date but does have such an agreement in effect on December 31, 2010, the effective date of such provider agreement).
(D) Increase limited to facilities on the main campus of the hospital. Any increase in the number of operating rooms, procedure rooms, and beds for which an applicable hospital is licensed pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.
(E) Applicable hospital. In this paragraph, the term "applicable hospital" means a hospital--
(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;
(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX [42 USCS §§ 1396 et seq.] is equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;
(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;
(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and
(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.
(F) High Medicaid facility described. A high Medicaid facility described in this subparagraph is a hospital that--
(i) is not the sole hospital in a county;
(ii) with respect to each of the 3 most recent years for which data are available, has an annual percent of total inpatient admissions that represent inpatient admissions under title XIX [42 USCS §§ 1396 et seq.] that is estimated to be greater than such percent with respect to such admissions for any other hospital located in the county in which the hospital is located; and
(iii) meets the conditions described in subparagraph (E)(iii).
(G) Procedure rooms. In this subsection, the term "procedure rooms" includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).
(H) Publication of final decisions. Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

(I) Limitation on review. There shall be no administrative or judicial review under section 1869 [42 USCS § 1395ff], section 1878 [42 USCS § 1395oo], or otherwise of the process under this paragraph (including the establishment of such process).
(4) Collection of ownership and investment information. For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician ownership and investment information for each hospital.
(5) Physician owner or investor defined. For purposes of this subsection, the term "physician owner or investor" means a physician (or an immediate family member of such physician) with a direct or an indirect ownership or investment interest in the hospital.
(6) Clarification. Nothing in this subsection shall be construed as preventing the Secretary from revoking a hospital's provider agreement if not in compliance with regulations implementing section 1866 [42 USCS § 1395cc].

EXPANSION UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA: PL 111-148 – MARCH 2010)

The Patient Protection and Affordable Care Act (PPACA) was signed into law by President Obama on March 23, 2010. The PPACA links the retention of program overpayments to potential liability under the False Claims Act. Failure to report and repay any overpayment within the timeframe outlined in Section 6402 below may result in a violation of the False Claims Act, civil monetary penalty, or other penalties. In addition, a claim that includes items or services resulting from a violation of the Anti-Kickback Statute now constitutes a false or fraudulent claim under the False Claims Act pursuant to Section 6402(f).

Section 6402 (d): REPORTING AND RETURNING OF OVERPAYMENTS.—
42 USCS § 1320a-7k
(d) **Reporting and returning of overpayments.**

(**(1)** In general. If a person has received an overpayment, the person shall--
(A) report and return the overpayment to the Secretary, the State, an intermediary, a carrier, or a contractor, as appropriate, at the correct address; and
(B) notify the Secretary, State, intermediary, carrier, or contractor to whom the overpayment was returned in writing of the reason for the overpayment.
(2) Deadline for reporting and returning overpayments. An overpayment must be reported and returned under paragraph (1) by the later of--
(A) the date which is 60 days after the date on which the overpayment was identified; or
(B) the date any corresponding cost report is due, if applicable.
(3) Enforcement. Any overpayment retained by a person after the deadline for reporting and returning the overpayment under paragraph (2) is an obligation (as defined in *section 3729(b)(3) of title 31, United States Code*) for purposes of section 3729 of such *title [31 USCS § 3729]*.
(4) Definitions. In this subsection:
(A) Knowing and knowingly. The terms "knowing" and "knowingly" have the meaning given those terms in *section 3729(b) of title 31, United States Code*.
(B) Overpayment. The term "overpayment" means any funds that a person receives or retains under title XVIII or XIX [*42 USCS §§ 1395* et seq. or *1396* et seq.] to which the person, after applicable reconciliation, is not entitled under such title.
(C) Person.
(i) In general. The term "person" means a provider of services, supplier, Medicaid managed care organization (as defined in section 1903(m)(1)(A) [*42 USCS § 1396b(m)(1)(A)*]), Medicare Advantage organization (as defined in section 1859(a)(1) [*42 USCS § 1395w-28(a)(1)*]), or PDP sponsor (as defined in section 1860D-41(a)(13) [*42 USCS § 1395w-151(a)(13)*]).
(ii) Exclusion. Such term does not include a beneficiary.

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Section 6402(f): HEALTH CARE FRAUD.—
42 USCS § 1320a-7b
(g) **Kickbacks.** Liability under subchapter III of chapter 37 of title 31. In addition to the penalties provided for in this section or section 1128A [42 USCS § 1320a-7a], a claim that includes items or services resulting from a violation of this section constitutes a false or fraudulent claim for purposes of subchapter III of chapter 37 of title 31, United States Code [31 USCS §§ 3721 et seq.].

21ST CENTURY CURES ACT, 114 P.L. 255 – December 2016

Sec. 5005. - Increasing oversight of termination of Medicaid providers

Section 5005 (a) Increased oversight and reporting.
(1) State reporting requirements. Section 1902(kk) of the Social Security Act (*42 U.S.C. 1396a(kk)*) is amended--
(A) by redesignating paragraph (8) as paragraph (9); and
(B) by inserting after paragraph (7) the following new paragraph:

"**(8)** Provider terminations.

"**(A)** In general. **Beginning on July 1, 2018**, in the case of a notification under subsection (a)(41) with respect to a termination for a reason specified in section 455.101 of title 42, Code of Federal Regulations (as in effect on November 1, 2015) or for any other reason specified by the Secretary, of the participation of a provider of services or any other person under the State plan (or under a waiver of the plan), the State, not later than 30 days after the effective date of such termination, submits to the Secretary with respect to any such provider or person, as appropriate--

"**(i)** the name of such provider or person;

"**(ii)** the provider type of such provider or person;

"**(iii)** the specialty of such provider's or person's practice;

"**(iv)** the date of birth, Social Security number, national provider identifier (if applicable), Federal taxpayer identification number, and the State license or certification number of such provider or person (if applicable);

"**(v)** the reason for the termination;

"**(vi)** a copy of the notice of termination sent to the provider or person;

"**(vii)** the date on which such termination is effective, as specified in the notice; and

"**(viii)** any other information required by the Secretary.

"**(B)** Effective date defined. For purposes of this paragraph, the term "effective date" means, with respect to a termination described in subparagraph (A), the later of--

"**(i)** the date on which such termination is effective, as specified in the notice of such termination; or

"**(ii)** the date on which all appeal rights applicable to such termination have been exhausted or the timeline for any such appeal has expired.".

(2) Contract requirement for managed care entities. Section 1932(d) of the Social Security Act (*42 U.S.C. 1396u-2(d)*) is amended by adding at the end the following new paragraph:

"**(5)** Contract requirement for managed care entities. With respect to any contract with a managed care entity under section 1903(m) or 1905(t)(3) (as applicable), **no later than July 1, 2018**, such contract shall include a provision that providers of services or persons terminated (as described in section 1902(kk)(8)) from participation under this title, title XVIII, or title XXI shall be terminated from participating under this title as a provider in any network of such entity that serves individuals eligible to receive medical assistance under this title.".

(3) Termination Notification Database. Section 1902 of the Social Security Act (*42 U.S.C. 1396a*) is amended by adding at the end the following new subsection:

"**(ll)** Termination notification database. In the case of a provider of services or any other person whose participation under this title or title XXI is terminated (as described in subsection (kk)(8)), the Secretary shall, not later than 30 days after the date on which the Secretary is notified of such termination under subsection (a)(41) (as applicable), review such termination and, if the Secretary determines appropriate, include such termination in any database or similar system developed pursuant to section 6401(b)(2) of the Patient Protection and Affordable Care Act (*42 U.S.C. 1395cc* note; Public Law 111-148).".

(4) No Federal funds for items and services furnished by terminated providers. Section 1903 of the Social Security Act (*42 U.S.C. 1396b*) is amended--

(A) in subsection (i)(2)--

(i) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(ii) in subparagraph (B), by striking "or" at the end; and

(iii) by adding at the end the following new subparagraph:

"**(D) beginning on July 1, 2018, under** the plan by any provider of services or person whose participation in the State plan is terminated (as described in section 1902(kk)(8)) after the date that is 60 days after the date on which such termination is included in the database or other system under section 1902(ll); or"; and

(B) in subsection (m), by inserting after paragraph (2) the following new paragraph:

"**(3)** No payment shall be made under this title to a State with respect to expenditures incurred by the State for payment for services provided by a managed care entity (as defined under section 1932(a)(1)) under the State plan under this title (or under a waiver of the plan) unless the State--

"**(A)** beginning on July 1, 2018, has a contract with such entity that complies with the requirement specified in section 1932(d)(5); and

"**(B)** beginning on January 1, 2018, complies with the requirement specified in section 1932(d)(6)(A).".

(5) Development of uniform terminology for reasons for provider termination. **Not later than July 1, 2017**, the Secretary of Health and Human Services shall, in consultation with the heads of State agencies administering State Medicaid plans (or waivers of such plans), issue regulations establishing uniform terminology to be used with respect to specifying reasons under subparagraph (A)(v) of paragraph (8) of section 1902(kk) of the Social Security Act (*42 U.S.C. 1396a(kk)*), as added by paragraph (1), for the termination (as described in such paragraph (8)) of the participation of certain providers in the Medicaid program under title XIX of such Act or the Children's Health Insurance Program under title XXI of such Act.

(6) Conforming amendment. Section 1902(a)(41) of the Social Security Act (*42 U.S.C. 1396a(a)(41)*) is amended by striking "provide that whenever" and inserting "provide, in accordance with subsection (kk)(8) (as applicable), that whenever".

Section 5005 (b) Increasing availability of Medicaid provider information.

(1) FFS provider enrollment. Section 1902(a) of the Social Security Act (*42 U.S.C. 1396a(a)*) is amended by inserting after paragraph (77) the following new paragraph:

"**(78)** provide that, **not later than January 1, 2017**, in the case of a State that pursuant to its State plan or waiver of the plan for medical assistance pays for medical assistance on a fee-for-service basis, the State shall require each provider furnishing items and services to, or ordering, prescribing, referring, or certifying eligibility for, services for individuals eligible to receive medical assistance under such plan to enroll with the State agency and provide to the State agency the provider's

identifying information, including the name, specialty, date of birth, Social Security number, national provider identifier (if applicable), Federal taxpayer identification number, and the State license or certification number of the provider (if applicable);".

(2) Managed care provider enrollment. Section 1932(d) of the Social Security Act (*42 U.S.C. 1396u-2(d)*), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

"(6) Enrollment of participating providers.

"(A) In general. **Beginning not later than January 1, 2018,** a State shall require that, in order to participate as a provider in the network of a managed care entity that provides services to, or orders, prescribes, refers, or certifies eligibility for services for, individuals who are eligible for medical assistance under the State plan under this title (or under a waiver of the plan) and who are enrolled with the entity, the provider is enrolled consistent with section 1902(kk) with the State agency administering the State plan under this title. Such enrollment shall include providing to the State agency the provider's identifying information, including the name, specialty, date of birth, Social Security number, national provider identifier, Federal taxpayer identification number, and the State license or certification number of the provider.

"(B) Rule of construction. Nothing in subparagraph (A) shall be construed as requiring a provider described in such subparagraph to provide services to individuals who are not enrolled with a managed care entity under this title.".

(c) Coordination with CHIP.

Section 5005[c](1) In general. Section 2107(e)(1) of the Social Security Act (*42 U.S.C. 1397gg(e)(1)*) is amended--

(A) by redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), and (O) as subparagraphs (D), (E), (F), (G), (H), (I), (J), (K), (M), (N), (O), (P), (Q), and (R), respectively;

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) Section 1902(a)(39) (relating to termination of participation of certain providers).

"(C) Section 1902(a)(78) (relating to enrollment of providers participating in State plans providing medical assistance on a fee-for-service basis).";

(C) by inserting after subparagraph (K) (as redesignated by subparagraph (A)) the following new subparagraph:

"(L) Section 1903(m)(3) (relating to limitation on payment with respect to managed care).''; and

(D) in subparagraph (P) (as redesignated by subparagraph (A)), by striking "(a)(2)(C) and (h)" and inserting "(a)(2)(C) (relating to Indian enrollment), (d)(5) (relating to contract requirement for managed care entities), (d)(6) (relating to enrollment of providers participating with a managed care entity), and (h) (relating to special rules with respect to Indian enrollees, Indian health care providers, and Indian managed care entities)".

Section 5005[c][2]: Excluding from Medicaid providers excluded from CHIP.

Section 1902(a)(39) of the Social Security Act (42 U.S.C. 1396a(a)) is amended:

(39) provide that the State agency shall exclude any specified individual or entity from participation in the program under the State plan for the period specified by the Secretary, when required by him to do so pursuant to section 1128 or section 1128A [*42 USCS § 1320a-7* or *1320a-7a*], terminate the participation of any individual or entity in such program if (subject to such exceptions as are permitted with respect to exclusion under sections 1128(c)(3)(B) and 1128(d)(3)(B) [*42 USCS § 1320a-7(c)(3)(B)* and (d)(3)(B)]) participation of such individual or entity is terminated under *title XVIII [*42 USCS §§ 1395 *et seq.], any other State plan under this* title [42 USCS §§ 1396 *et seq.] (or waiver of the plan), or any State child health plan under title XXI [*42 USCS §§ 1396 *et seq.] (or waiver of the plan) and such termination is included by the Secretary in any database or similar system developed pursuant to section 6401(b)(2) of the Patient Protection and Affordable Care Act* [*42 USCS § 1395cc* note], and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period;

42 USCS § 1397gg - Strategic objectives and performance goals; plan administration

(e) Application of certain general provisions. The following sections of this Act shall apply to States under this *title [42 USCS §§ 1397aa* et seq.] in the same manner as they apply to a State under title XIX [*42 USCS §§ 1396* et seq.]:

(1) Title XIX provisions.

(A) Section 1902(a)(4)(C) [*42 USCS § 1396a(a)(4)(C)*] (relating to conflict of interest standards).

(B) *Section 1902(a)(39) [*42 USCS § 1396a(a)(39)*] (relating to termination of participation of certain providers).*

(C) *Section 1902(a)(78) [*42 USCS § 1396a(a)(78)*] (relating to enrollment of providers participating in State plans providing medical assistance on a fee-for-service basis).*

(D) Section 1902(a)(72) [*42 USCS § 1396a(a)(72)*] (relating to limiting FQHC contracting for provision of dental services).

(E) Section 1902(a)(73) [*42 USCS § 1396a(a)(73)*] (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).

(F) Subsections (a)(77) and (kk) of section 1902 [*42 USCS § 1396a*] (relating to provider and supplier screening, oversight, and reporting requirements).

(G) Section 1902(e)(13) [*42 USCS § 1396a(e)(13)*] (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).

(H) Section 1902(e)(14) [*42 USCS § 1396a(e)(14)*] (relating to income determined using modified adjusted gross income and household income).

(I) Section 1902(bb) [*42 USCS § 1396a(bb)*] (relating to payment for services provided by Federally-qualified health centers and rural health clinics).

(J) Section 1902(ff) [*42 USCS § 1396a(ff)*] (relating to disregard of certain property for purposes of making eligibility determinations).

(K) Paragraphs (2), (16), and (17) of section 1903(i) [*42 USCS § 1396b(i)*] (relating to limitations on payment).

(L) *Section 1903(m)(3) [*42 USCS § 1396a(m)(3)*] (relating to limitation on payment with respect to managed care).*

(M) Paragraph (4) of section 1903(v) [*42 USCS § 1396b(v)*] (relating to optional coverage of categories of lawfully residing immigrant children or pregnant women), but only if the State has elected to apply such paragraph with respect to such category of children or pregnant women under title XIX [*42 USCS §§ 1396* et seq.].

(N) Section 1903(w) [*42 USCS § 1396b(w)*] (relating to limitations on provider taxes and donations).
(O) Section 1920A [*42 USCS § 1396r-1a*] (relating to presumptive eligibility for children).
(P) *Subsections (a)(2)(C) (relating to Indian enrollment), (d)(5) (relating to contract requirement for managed care entities), (d)(6) (relating to enrollment of providers participating with a managed care entity), and (b) (relating to special rules with respect to Indian enrollees, Indian health care providers, and Indian managed care entities) of section 1932 [*42 USCS § 1396u-2*].*
(Q) Section 1942 [*42 USCS § 1396w-2*] (relating to authorization to receive data directly relevant to eligibility determinations).
(R) Section 1943(b) [*42 USCS § 1396w-3(b)*] (relating to coordination with State Exchanges and the State Medicaid agency).

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PART IV – STATE FALSE CLAIMS & FRAUD RELATED REGULATIONS

Alphabetical listing by state: *(select CTRL + click on the specific state)*.

California	Colorado
Florida	*Georgia*
Hawaii	*Idaho*
Illinois	Louisiana
Missouri	Nevada
New Mexico	*Ohio*
Pennsylvania	*Texas*
Wyoming	

State /Citation	False Claims Laws
California /Cal Gov Code § 12650-12655	**Criminal and Civil Penalties for False Claims and Statements** **Other Helpful Information About Medicaid Fraud & Reporting Fraud** *State Bulletin/Notice - **Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery*** ***https://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2007/MMCDAPL07007.pdf*** ***https://www.dhcs.ca.gov/formsandpubs/MHArchives/InfoNotice07-12.pdf*** Office of Attorney General @ *https://oag.ca.gov/bmfea/medical* Cal Gov Code § 12650 - § 12656 **False Claims Actions** *https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.&chapter=6.&article=9.* Cal Wel & Inst Code § 14107 **Punishment for fraudulent claim or false information; Alternative remedies** *https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC&sectionNum=14107*.
	Qui Tam Actions & Remedies **Cal Gov Code § 12652[c]** **Investigations; Civil actions** *http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12652*.
	Whistle-blower Protections **Cal Gov Code § 12653** **Prohibited actions by employers; Remedies** *http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12653.*
Colorado C.R.S.A. § 24-31-1201 et seq. C.R.S. 25.5-4-304 C.R.S. 25.5-4-305 C.R.S. 25.5-4-306 C.R.S. 13-80-102.5	**Other Helpful Information About Medicaid Fraud & Reporting Fraud** **https://www.colorado.gov/pacific/hcpf/Deficit-reduction-act-of-2005** **https://www.colorado.gov/pacific/hcpf/how-report-suspected-fraud** *https://www.colorado.gov/hcpf/fraud-waste-and-abuse* **https://stopfraudcolorado.gov/fraud-center/false-claims/#:~:text=The%20Colorado%20False%20Claims%20Act%2C%20or%20CFCA%2C%20is%20designed%20to,%2C%20please%20see%20Medicaid%20Fraud**). **C.R.S.A. § 26-1-127** **§ 26-1-127. Fraudulent acts** Currentness (1) Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title 26 or child care assistance as described in part 1 of article 4 of title 26.5 to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled

State /Citation	False Claims Laws
	or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft, which crime is classified in accordance with section 18-4-401(2) and which crime is punished as provided in section 18-1.3-401 if the crime is classified as a felony, or section 18-1.3-501 if the crime is classified as a misdemeanor. To the extent not otherwise prohibited by state or federal law, any person violating the provisions of this subsection (1) is disqualified from participation in the program pursuant to article 2 of this title 26 or part 1 of article 4 of title 26.5 in which a recipient is found to have committed an intentional program violation for one year for a first offense, two years for a second offense, and permanently for a third or subsequent offense. Such disqualification is mandatory and is in addition to any other penalty imposed by law. (1.5) To the extent not otherwise prohibited by state or federal law, any person against whom a county department of human or social services, the state department, or the department of early childhood obtains a civil judgment in a state or federal court of record in this state based on allegations that the person obtained or willfully aided and abetted another to obtain public assistance or vendor payments or medical assistance as defined in this title 26 or child care assistance as described in part 1 of article 4 of title 26.5 to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, is disqualified from participation in the program pursuant to article 2 of this title 26 or part 1 of article 4 of title 26.5 in which a recipient is found to have committed an intentional program violation for one year for a first incident, two years for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other remedy available to a judgment creditor. (2)(a) If, at any time during the continuance of public assistance pursuant to this title 26 or child care assistance pursuant to part 1 of article 4 of title 26.5, the recipient acquires any property or receives any increase in income or property, or both, in excess of that declared at the time of determination or redetermination of eligibility or if there is any other change in circumstances affecting the recipient's eligibility, it shall be the duty of the recipient to notify the county department within thirty days in writing or take steps to secure county assistance to prepare such notification in writing of the acquisition of such property, receipt of such income, or change in such circumstances; and any recipient of such public assistance who knowingly fails to do so commits a petty offense and shall be punished as provided in section 18-1.3-503. If such property or income is received infrequently or irregularly and does not exceed a total value of ninety dollars in any calendar quarter, such property or income is excluded from the thirty-day written reporting requirement but must be reported at the time of the next redetermination of eligibility of a recipient. (b) The county departments shall use an application form which contains appropriate and conspicuous notice of the penalties for fraud and shall deliver to each recipient, with the first check and each redetermination thereafter, a notice explaining what changes in circumstances require written notification to the county department under paragraph (a) of this subsection (2). The county department shall make available suitable forms which may be used for the purposes of this notification. (3) Any recipient or vendor who falsifies any report required pursuant to this title 26 or part 1 of article 4 of title 26.5 commits a petty offense and is punished as provided in section 18-1.3-503. (4) Subject to available appropriations, additional costs incurred by the district attorneys in enforcing this section shall be billed to the county departments in the judicial district in such proportion for each county as specified in section 20-1-302, C.R.S., and the county departments shall pay such costs as an expense of public assistance administration. (5) Notwithstanding the provisions of this section, the state department, county departments, or district attorney may elect, in the alternative, to prosecute under the general criminal statutes. (6) Repealed by Laws 1979, H.B.1111, § 2. **Credits** **Added by Laws 1977, H.B.1539, §§ 3, 10, eff. Jan. 1, 1978. Amended by Laws 1979, H.B.1111, § 2, eff. June 21, 1979; Laws 1981, H.B.1513, § 1, eff. June 5, 1981; Laws 1989, S.B.246, § 118, eff. July 1, 1989; Laws 1994, S.B.94-41, § 4, eff. July 1, 1994; Laws 1997, S.B.97-120, § 13, eff. July 1, 1997; Laws 2002, Ch. 318, § 272, eff. Oct. 1, 2002; Laws 2020, Ch. 222 (S.B. 20-206), § 1, eff. July 2, 2020; Laws 2021, Ch. 462 (S.B. 21-271), § 485, eff. March 1, 2022; Laws 2022, Ch. 123 (H.B. 22-1295), § 90, eff. July 1, 2022; Laws 2024, Ch. 155 (H.B. 24-1222), § 17, eff. Aug. 7, 2024.** **Colorado False Claims Act** *https://leg.colorado.gov/sites/default/files/2022a_1119_signed.pdf* C.R.S. 25.5-4-303.5 - Short title This section and *sections 25.5-4-304* to *25.5-4-310* shall be known and may be cited as the "Colorado Medicaid False Claims Act". **HISTORY:** Source: L. 2010: Entire section added, *(SB 10-167), ch. 296, p. 1379, § 10*, effective May 26. C.R.S. 25.5-4-304 - Definitions As used in *sections 25.5-4-303.5* to *25.5-4-309*, unless the context otherwise requires: (1) (a) "Claim" means a request or demand for money or property, whether under a contract or otherwise, and regardless of whether the state has title to the money or property, under the "Colorado Medical Assistance

State /Citation	False Claims Laws
	Act" that is: (I) Presented to an officer, employee, or agent of the state; or (II) Made to a contractor, grantee, or other recipient if the money or property is to be spent or used on the state's behalf or to advance a program or interest of the state and if the state: (A) Provides or has provided any portion of the money or property requested or demanded; or (B) Will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded. (b) "Claim" does not include a request or demand for money or property that the state has paid to an individual as compensation for employment by the state or as an income subsidy with no restriction on that individual's use of the money or property. (2) "Colorado Medical Assistance Act" means this article and articles 5 and 6 of this title. (3) (a) "Knowing" or "knowingly" means that a person, with respect to information: (I) Has actual knowledge of the information; (II) Acts in deliberate ignorance of the truth or falsity of the information; or (III) Acts in reckless disregard of the truth or falsity of the information. (b) "Knowing" or "knowingly" does not require proof of specific intent to defraud. (4) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. (5) "Obligation" means a fixed or contingent duty arising from an express or implied contractual, quasi-contractual, grantor-grantee, licensor-licensee, statutory, fee-based, or similar relationship, or the retention of overpayment. **HISTORY:** Source: L. 2006: Entire article added with relocations, p. 1838, § 7, effective July 1.L. 2010: Entire section R&RE, *(SB 10-167), ch. 296, p. 1379, § 11*, effective May 26.L. 2013: (5) amended, *(SB 13-205), ch. 276, p. 1441, § 3*, effective August 7. **C.R.S. 25.5-4-305 - False medicaid claims - liability for certain acts** (1) Except as otherwise provided in subsection (2) of this section, a person is liable to the state for a civil penalty of not less than five thousand five hundred dollars and not more than eleven thousand dollars; except that these upper and lower limits on liability shall automatically increase to equal the civil penalty allowed under the federal "False Claims Act", *31 U.S.C. sec. 3729*, et seq., if and as the penalties in such federal act may be adjusted for inflation as described in said act in accordance with the federal "Civil Penalties Inflation Adjustment Act of 1990", Pub. L. No. 101-410, plus three times the amount of damages that the state sustains because of the act of that person, if the person: (a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (b) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim; (c) Has possession, custody, or control of property or money used, or to be used, by the state in connection with the "Colorado Medical Assistance Act" and knowingly delivers, or causes to be delivered, less than all of

State /Citation	False Claims Laws
	the money or property; (d) Authorizes the making or delivery of a document certifying receipt of property used, or to be used, by the state in connection with the "Colorado Medical Assistance Act" and, intending to defraud the state, makes or delivers the receipt without completely knowing that the information on the receipt is true; (e) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state in connection with the "Colorado Medical Assistance Act" who lawfully may not sell or pledge the property; (f) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state in connection with the "Colorado Medical Assistance Act", or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state in connection with the "Colorado Medical Assistance Act"; (g) Conspires to commit a violation of paragraphs (a) to (f) of this subsection (1). (2) Notwithstanding the amount of damages authorized in subsection (1) of this section, for a person who violates subsection (1) of this section, the court may assess not less than twice the amount of damages that the state sustains because of the act of the person if the court finds that: (a) The person who committed the violation of subsection (1) of this section furnished to the officials of the state responsible for investigating false claims violations all information about the violation known to the person and furnished said information within thirty days after the date on which the person first obtained the information; (b) At the time the person furnished the information about the violation to the state, a criminal prosecution, civil action, or administrative action had not commenced with respect to the violation and the person did not have actual knowledge of the existence of an investigation into the violation; and (c) The person fully cooperated with any investigation of the violation by the state. (3) A person violating this section shall also be liable to the state for the costs of a civil action brought to recover any penalty or damages. (4) Any information furnished pursuant to subsection (2) of this section shall be exempt from disclosure under part 2 of article 72 of this title. **HISTORY:** Source: L. 2006: Entire article added with relocations, p. 1839, § 7, effective July 1.L. 2010: Entire section R&RE, *(SB 10-167), ch. 296, p. 1380, § 12*, effective May 26.L. 2011: IP(1) amended, *(HB 11-1303), ch. 264, p. 1168, § 66*, effective August 10.L. 2013: IP(1) and (1)(a) amended, *(SB 13-205), ch. 276, p. 1441, § 4*, effective August 7. **C.R.S. 18-5-114 - Offering a false instrument for recording** (1) A person commits offering a false instrument for recording in the first degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, and with intent to defraud, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee. (2) Offering a false instrument for recording in the first degree is a class 5 felony. (3) A person commits offering a false instrument for recording in the second degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee. (4) Offering a false instrument for recording in the second degree is a class 2 misdemeanor. Credits Amended by Laws 1980, H.B.1079, § 1; Laws 2021, Ch. 462 (S.B. 21-271), § 234, eff. March 1, 2022. **10 CCR 2505-10 - MEDICAL ASSISTANCE**

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	https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=1584 10 CCR 2505-10:8.076 Alternatively cited as 10 CO ADC 2505-10 **2505-10:8.076. PROGRAM INTEGRITY** Currentness 8.076.1 DEFINITIONS 1. Abuse means Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medical Assistance program, an Overpayment by the Medical Assistance program, in reimbursement for goods or services that are not medically necessary, as defined at Section 8.076.1.8., or that fail to meet professionally recognized standards for health care. These practices may include, but are not limited to: a. Billing for goods or services without valid documentation to support the claims submitted for reimbursement. b. Unbundling charges on claims for goods or services by separating components of a group of procedures that are required to be billed together (or bundled), and billing each component separately. c. Submitting a fee-for-service claim or claims for goods or services before they have been provided. d. Signing prior authorizations or physician's orders for goods or services that are inappropriate or not medically necessary for the client. e. Presenting or causing to be presented for payment any false or fraudulent claim for goods or services. f. Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled. g. Submitting or causing to be submitted false information for the purpose of meeting prior authorization requirements. h. Failing to retain or disclose or make available to the Department or its authorized agent(s) records of goods or services provided to eligible clients and related records of payments when requested. i. Engaging in a course of conduct or performing an act deemed improper or continuing such conduct following notification that said conduct should cease. j. Visiting a facility, such as a nursing home, and billing for individual visits without rendering any specific service to individual clients. k. Overutilizing by inducing, furnishing, or otherwise causing a client to receive goods or services not otherwise required or requested by the client or prescribing Provider. l. Violating any applicable regulation listed at Section 8.000, et seq. or failing to comply with any guidance provided by the Department, including but not limited to provider bulletins and billing manuals. m. Submitting a false or fraudulent application for provider enrollment. n. Violating any laws or regulations pertaining to federal or state health care programs or failing to meet professionally recognized standards for health care. o. Conviction of a criminal offense relating to: i) Performance of the Provider Agreement with the State; ii) Negligent practice resulting in the death or injury to patients; iii) Patient abuse; iv) Fraudulent billing practices; v) Misuse or misapplication of program funds; vi) The unlawful manufacture, distribution, prescription or dispensing of controlled substances; or vii) Actions that indicates a Provider may pose a risk to the health, safety, or well-being of a client. p. Failure to meet standards required by state or federal law for participation such as licensure or certification requirements. q. Failure to correct deficiencies in provider operations in accordance with an accepted plan of correction or written response after receiving written notice of these deficiencies from the Department, its designees, or other state agencies. r. Formal reprimand or censure by an association of the Provider's peers or the appropriate state or federal regulatory or licensing body for unethical, illegal, or improper practices. s. Suspension, exclusion, or termination from participation in another governmental medical program for fraudulent or abusive practices. t. Failure to repay or make arrangements to repay Overpayments or payments made in error. u. Use of another Provider's provider identification number for the purpose of obtaining reimbursement. v. Use of client identification numbers to submit claims for reimbursement for goods or services that were not rendered or delivered. w. Alteration of any source documentation performed to support claims billed or creation of new source documentation to support claims billed when the alteration or creation occurs after a request for documentation is received by the Provider from the Department or its agent. Alteration does not include a late entry that is signed and dated when documented or transcriptions made to facilitate a Department review. x. Upcoding services by submitting claims for a higher level of goods or services than what was provided or medically necessary. 2. Conviction or Convicted means that: a. A judgment of conviction has been entered against an individual or an entity by a federal, state, or local court, regardless of whether there is a post-trial motion or an appeal pending;

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	b. A federal, state, or local court has made a finding of guilt against an individual or entity; c. A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity; or d. An individual or entity has entered into participation in a first offender, deferred adjudication, or other program or arrangement where judgment of conviction has been withheld. 3. Excluded means a Provider that has been barred from participating in any health care program by the Office of Inspector General for the United States Department of Health and Human Services (OIG). 4. False Representation means an inaccurate statement that is relevant to a claim for reimbursement or Prior Authorization Request and is made by a Provider who has actual knowledge of the truth or false nature of the statement, or by a Provider acting in deliberate ignorance of or with reckless disregard for the truth of the statement. A Provider acts with deliberate ignorance of or with reckless disregard for the truth if the Provider fails to maintain records required by the Department or if the Provider fails to become familiar with rules, manuals, and bulletins issued by the Department, board or the Department's fiscal agent. 5. Fraud means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to her/himself or some other person. It includes any act that constitutes fraud under any federal or state law. 6. Furnished means goods or services provided directly by, or under the direct supervision of, or ordered by, a practitioner or other individual (either as an employee or in his or her own capacity), a Provider, or other supplier of goods or services. 7. Good cause, for the purpose of withholding payments to a provider or denying, terminating, or not renewing a Provider agreement means: a. The Provider has failed to comply substantially with rules, manuals, and bulletins issued by the Department, board, or the Department's fiscal agent. b. The Provider has not complied with applicable federal and state statutes and regulations. c. The Provider, either by omission or commission, is endangering or has endangered the health, safety, or well-being of a program services client or cients. d. The owner, operator, partner, or other participating employee of the Provider has previously owned, operated, or otherwise participated in and received direct or indirect payment from the Medical Assistance Program and has a documented pattern of program abuse, substandard care, endangerment of the health or well-being of clients, or non-compliance with program requirements. e. The Provider's license or certification has expired, been revoked, suspended, surrendered while a formal disciplinary proceeding was pending before a state licensing authority, or for any other reason is invalid at the time goods are provided or services are rendered for which claims are submitted for reimbursement. f. The Provider has been excluded, suspended, or terminated from any Medical Assistance program of another state or has been excluded, suspended, terminated or had had its billing privileges revoked under the Medicare program, or has been excluded by the OIG unless a waiver is granted by the OIG. g. The Provider has failed to fully and accurately make any disclosures required by federal and state statutes or regulations. h. Any Provider, or person with an ownership or controlling interest in the Provider, or who is a Provider's agent or managing employee, has been convicted of a criminal offense outlined in Section 8.076.1.1.o. i. The Provider has demonstrated a pattern of Abuse. j. The Provider has engaged in False Representation and/or Fraud in submitting Medical Assistance program claims. k. The Provider has billed or sought collection through a third party from a client or the estate of a client, his or her family, friend, or other representative, for any amount for covered goods or services, excluding any required copayment, coinsurance, or other client cost-sharing amounts, and failed, once notified by the Department, to correct the billing or collection action. l. The Provider has failed to return money paid by clients for covered goods or services rendered during any period of client eligibility. This includes failing to pay back clients for goods or services for which they were charged when their eligibility was determined retroactively and there is evidence of notification of retroactive eligibility for the client, regardless of whether payment for the covered goods or services were received. m. The Provider owes the Department an outstanding balance and has failed to enter into a payment plan with the Department or the provider has failed to comply with a payment plan it had previously entered into. n. The Provider has failed to provide a written response within thirty (30) days of the Department's request or the Provider has provided a written response but failed to meet the requirements set out in the Department's request as described in Section 8.076.6. o. The Provider has failed to provide information related to the False Claims Act and whistleblower protections described in Section 8.076.7, within thirty (30) days of the Department's request. 8. Medical necessity means a Medical Assistance program good or service: a. Will, or is reasonably expected to prevent, diagnose, cure, correct, reduce, or ameliorate the pain and suffering, or the physical, mental, cognitive, or developmental effects of an illness, condition, injury, or disability. This may include a course of treatment that includes mere observation or no treatment at all; b. Is provided in accordance with generally accepted professional standards for health care in the United States; c. Is clinically appropriate in terms of type, frequency, extent, site, and duration; d. Is not primarily for the economic benefit of the provider or primarily for the convenience of the client, caretaker, or provider; e. Is delivered in the most appropriate setting(s) required by the client's condition; f. Is not experimental or investigational; and g. Is not more costly than other equally effective treatment options. 9. Overpayment means the amount paid to a Provider which is in excess of the amount that is allowable for goods or services furnished and which is required by Title XIX of the Social Security Act to be refunded. An Overpayment may include, but is not limited to, improper payments made as the result of fraud, waste, and abuse.

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	10. Provider means any person, public or private institution, agency, or business concern enrolled under the state Medical Assistance program to provide medical care, services, or goods and holding, where applicable, a current valid license or certificate to provide such services or to dispense such goods. **8.076.2 COMPLIANCE MONITORING** 8.076.2.A. All Providers shall comply with the efforts of the Department, the U.S. Department of Health and Human Services (HHS), any investigative entity, the Medicaid Fraud Control Unit (MFCU), or their designees to monitor Provider compliance with federal and state Medical Assistance program statutes, regulations and guidance in order to detect and correct noncompliance and prevent fraud, waste and abuse. 8.076.2.B. Compliance monitoring includes, but is not limited to: 1. Conducting prospective, concurrent, and/or post-payment reviews of claims. 2. Verifying Provider adherence to professional licensing and certification requirements. 3. Reviewing goods provided and services rendered for fraud, waste and abuse. 4. Reviewing compliance with rules, manuals, and bulletins issued by the Department, board, or the Department's fiscal agent. 5. Reviewing compliance with nationally recognized billing standards and those established by professional organizations including, but not limited to, Current Procedural Terminology (CPT), Current Dental Terminology (CDT), and Healthcare Common Procedure Coding System (HCPCS). 6. Reviewing adherence to the terms of the Provider Participation Agreement. 8.076.2.C. Compliance monitoring activities may include, but are not limited to: 1. Site reviews. 2. Desk audits. 3. Medical records reviews. 4. Claims reviews. 5. Data mining. 8.076.2.D. The Department, HHS, investigative entities, the MFCU, or their designees has the right to audit and confirm any information submitted by the Provider to the Medical Assistance program. The Provider shall furnish information about submitted claims, claim documentation records, and original source documentation including, but not limited to, provider and patient signatures; medical, accounting, or financial records; or any other relevant information upon request. 8.076.2.E. A written request to review records shall be provided to the Provider. This request shall include clearly defined due dates for submitting requested records, and the procedures for requesting an extension of time to submit the requested records. This request shall include the option of providing paper copies of records, electronic copies of records in a format that is compatible with the Department's or its designee's systems, or an inspection or reproduction of the records by the Department or its designees at the Provider's site. Medical records requested for review shall be provided to the Department at the expense of the Provider. The Provider shall submit or produce the requested materials within forty-five (45) calendar days unless: 1. The review is based on quality of care concerns, in which case the materials shall be submitted within fourteen (14) calendar days of the request; 2. The request is made during the course of a civil or criminal investigation, in which case the records shall be submitted immediately upon request; or 3. The request is made during the course of an external audit with the state or federal government, in which case the records shall be submitted within the timeframe the external auditors request. 8.076.2.F. Records received by the Department after the forty-five (45) calendar day deadline may be considered in the review at the Department's discretion. The written request for an extension to submit records must be received by the Department within fifteen (15) calendar days from the date of the Department's request. Telephone requests shall not be accepted. The request shall specify the additional time requested and the circumstances present that require an extension of time. 8.076.2.G. Any claims submitted for which documentation is not received within the time limits specified in this section shall be considered an Overpayment subject to recovery regardless of whether goods or services have been provided. 8.076.2.H. A Provider subject to a review or audit may request an interview in person or by telephone with the Department or its designees before the final written post-review correspondence is released. The request for an interview must be in writing, specify whether an in person or telephone interview is being requested, and must be received by the Department within ten (10) calendar days from the date of the Department's request for records. During this interview, the Provider may discuss the preliminary findings of the review or audit, what documentation the Provider may use to refute the findings, and the next steps in the review or audit process. 8.076.2.I. For all post-payment reviews, the Provider shall receive a letter identifying the Overpayment demand or notice of no repayments. This notice shall include the procedures for requesting an informal reconsideration or an appeal. 8.076.2.J. The staff of the Department, HHS, investigative entities, the MFCU, or their designees may photocopy or otherwise duplicate any paper or electronic document, chart, policy, or other record relating to medical care or services provided, charges to or payments made by clients, or goods or services provided for which a claim is submitted. The use of duplicating equipment on the Provider's premises shall be allowed to the extent that such use results in minimal disruption of the Provider's business. If such use of duplicating equipment will cause more than minimal disruption of business, the Provider shall notify the Department in writing or by telephone, and the Department shall attempt to resolve the issue with the Provider or make other arrangements. 8.076.2.K. Providers who maintain records to substantiate their claims for reimbursement in another entity's records including, but not limited to, a nursing facility, adult day care center, or hospital, are still subject to the requirements set forth at Section 8.076.2.E.

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	8.076.2.L. The Department may delegate compliance monitoring activities to its designees. 8.076.2.M. Nothing in Section 8.076 shall be construed as limiting the right of the Department to conduct quality improvement activities in accordance with the provisions of Section 8.079. 8.076.2.N. Nothing in Section 8.076 shall be construed as limiting the right of the Department to conduct emergency site visits when the Department has concerns about client safety, quality of care, fraud, abuse, or Provider financial failure. **8.076.3 RECOVERY OF OVERPAYMENTS** 8.076.3.A. Overpayments are subject to recovery by the Department or its designees. 8.076.3.B. Any identified Overpayment shall be recoverable from the Provider following exhaustion of any informal reconsideration and appeal pursuant to 8.050. 1. Overpayments and/or other indebtedness to the state are recoverable through a repayment agreement with the Provider, by offsetting the amount owed against current and future claims of the Provider, through litigation, or by any other appropriate action within the Department's legal authority. 2. The offset rate shall be 100% of the total amount owed to be withheld from subsequent payments until the entire amount owed is recovered. The Overpayment offset rate may be reduced if the Provider shows good cause that withholding payment at the established rate will result in undue hardship. 3. In cases where sufficient records are not available to the reviewer or auditor, the recovery may be determined through a sampling of records so long as the sampling and any extrapolation are reasonably valid from a statistical standpoint and is in accordance with generally accepted auditing standards. 8.076.3.C. Self-Disclosure of Provider Identified Overpayments 1. If a Provider has received an Overpayment, the Provider is required to report and return the Overpayment within sixty (60) days of identification. 2. Identification of an Overpayment occurs when the Provider has determined that it has received an Overpayment and quantified the amount of the Overpayment. 3. Reporting an Overpayment must be made in writing and at a minimum contain the following information: a) Provider National Provider Identification (NPI); b) Provider Medicaid Identification Number; c) Provider contact information (name, phone number, address and email address); d) Claims affected for each service location; and e) Basis for the Overpayment determination. 4. Failure to report and return the Overpayment within sixty (60) days of identification shall result in the Department recovering the Overpayment plus statutory interest in accordance with Section 8.076.3.C. 5. Self-disclosure of Provider-identified Overpayments are not an Adverse Action as defined in Section 8.050, and are not subject to an appeal. **8.076.4 SUSPENSION OF PAYMENTS IN CASES OF A CREDIBLE ALLEGATION OF FRAUD** 8.076.4.A. Payments to a Provider will be suspended, in whole or in part, upon a determination of a credible allegation of fraud for which an investigation is pending unless there is good cause to not suspend payments or to suspend payment only in part. 1. An allegation of fraud is considered credible if the allegation has evidence of reliability after a review of the allegation, facts and evidence. 2. A determination that there is good cause to not suspend payments or to suspend payment only in part will be made in accordance with the provisions in 42 C.F.R. § 455.23(e)-(f). 8.076.4.B. A Provider shall be notified of a suspension of payments, in whole or in part, by a notice of Adverse Action. 8.076.4.C. A Provider shall be granted appeal rights in accordance with Section 8.050. 8.076.4.D. Payments may be suspended without first notifying the Provider of the intention to withhold such payments. Notice of suspension of payments shall be sent to the Provider within the following timeframes: 1. Within five (5) calendar days of taking such action. 2. Within thirty (30) days if requested by law enforcement in writing to delay sending the notice. Requests for delay notice may be renewed in writing twice, not to exceed ninety (90) days. 8.076.4.E. The notice shall include: 1. A statement that payments are being suspended in accordance with this provision and 42 C.F.R. § 455.23; 2. The general allegations as to the nature of the suspension of payments action; 3. A statement that the suspension of payments is for a temporary period, and the circumstances under which suspension of payments will be terminated; 4. Which type or types of claims are subject to the suspension of payments, when appropriate; 5. A statement that the Provider may submit written evidence showing why the suspension of payments should not be implemented for consideration by the Department; and 6. The right to appeal as described in Section 8.050. 8.076.4.F. A suspension of payment action under Section 8.076.4 shall cease if the Department or prosecuting authorities determine that there is insufficient evidence of fraud or false representation by the Provider or if legal proceedings related to the alleged fraud are complete. **8.076.5 DENIAL, TERMINATION AND/OR NONRENEWAL OF PROVIDER AGREEMENTS** 8.076.5.A. The Department may deny an application for a Provider agreement, terminate or not renew a Provider agreement for Good Cause, as defined at Section 8.076.1.7.

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	8.076.5.B. A potential Provider shall be notified of the Department's decision to deny an application for a Provider agreement by a notice of Adverse Action. 8.076.5.C. A Provider shall be notified of the Department's decision to terminate or not renew a Provider agreement by a notice of Adverse Action. Termination and/or nonrenewal shall not be effective sooner than thirty (30) calendar days from the date of the notice except as provided at Section 8.076.5.D, where notice will be provided within five (5) calendar days of taking such action. 8.076.5.D. Provider agreements may be terminated without prior notice if: 1. The Provider has been convicted of fraud or convicted of a crime related to the Provider's involvement in Medicare, Medicaid, or any other federally funded program; 2. The Provider has been found to have made a false representation; 3. The termination is imperatively necessary for the preservation of the public health, safety, or welfare and observance of the requirements of notice would be contrary to the public interest. Within five (5) business days of the emergency termination, the Provider shall receive a notice of Adverse Action; 4. The Provider has been excluded by the OIG, or Medicare has terminated its Provider agreement or revoked the Provider's billing privileges. 8.076.5.E. Providers who had their Provider agreement terminated for Good Cause under this Section must apply for reinstatement in the Medical Assistance program prior to filing an application for enrollment. In order to apply for reinstatement, the Provider-applicant must send a written request to the Department that includes information that provides reasonable assurances that the actions that were the basis for termination have not reoccurred and will not recur in the future. After reviewing the written request, the Department will notify the provider of whether the provider is eligible for reinstatement or if the reinstatement has been denied, If the reinstatement has been denied the provider has the right to appeal in accordance with Section 8.050. **8.076.6 REQUEST FOR WRITTEN RESPONSE** 8.076.6.A. The Department may request a written response from any Provider who fails to comply with the rules, manuals, bulletins, other guidance issued by the Department, state board or the Department's fiscal agent, or from any Provider whose activities endanger the health, safety, or welfare of clients. 1. The request by the Department will be made in writing and contain specific information on the Provider's failed compliance. 2. The Provider must provide a written response within thirty (30) calendar days of the request addressing each identified area of failed compliance and either describe how the Provider will come into and ensure future compliance, or provide an explanation and specific reason why the Provider disagrees with the Department's finding of failed compliance. 3. The Department will review the written response to determine if it addresses the identified areas of failed compliance or provides an acceptable explanation of why the Department's findings were incorrect. The Department will notify the Provider of its determination within thirty (30) calendar days of the receipt of the response. 8.076.6.B. Once the Department has requested a written response, the Department may take the following actions until it determines that the Provider has come into compliance: 1. Conduct a prospective review to ensure compliance with rules in accordance with Section 8.076.2. 2. Prohibit the provider from accepting new referrals or receiving reimbursement for services provided under new referrals for Medicaid services. **8.076.7 FALSE CLAIMS ACT AND WHISTLEBLOWER PROTECTIONS COMPLIANCE** 8.076.7.A. If an entity is reimbursed at least $5,000,000 per year, as a condition of reimbursement the entity must maintain documentation: 1. Establishing written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established 31 U.S.C. §§ 3729-3733; administrative remedies for false claims and statements as provided in 31 U.S.C. §§ 3801-3812; state laws pertaining to civil or criminal penalties for false claims and statements; and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse; 2. Detailing provisions reagarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and 3. Of the employee handbook for the entity, including a specific discussion of the laws described in subparagraph (1), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste and abuse. 8.076.7.B. In order to ensure compliance with the provisions of Section 8.076.7.A, the entity must comply with written requests for this information within thirty (30) calendar days. Credits Amended Aug. 30, 2016; Aug. 30, 2019. Current through CR, Vol. 47, No. 15, August 10, 2024. Some sections may be more current, see credits for details. 10 CCR 2505-10:8.076, 10 CO ADC 2505-10:8.076---------- *Colorado Revised Statutes* *TITLE 18. CRIMINAL CODE* *ARTICLE 5. OFFENSES INVOLVING FRAUD* *PART 2. FRAUD IN OBTAINING PROPERTY OR SERVICES*

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	C.R.S. 18-5-211 - Insurance fraud - definitions (1) A person commits insurance fraud if the person does any of the following: (a) With an intent to defraud presents or causes to be presented in written, verbal, or digital form an application or request for the issuance, modification, or renewal of an insurance policy, which application or request, or documentation in support of such application or request, contains false material information or withholds material information that is requested by the insurer and results in the issuance of an insurance policy or insurance coverage for the applicant or another; (b) With an intent to defraud presents or causes to be presented any insurance claim, which claim contains false material information or withholds material information; (c) With an intent to defraud causes or participates, or purports to be involved, in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent insurance claim; (d) With an intent to defraud presents or causes to be presented an insurance claim where the loss or damage claimed occurred outside of the period of time that coverage was in effect for the applicable contract of insurance or policy unless otherwise permitted under the contract of insurance or policy; or (e) With an intent to defraud presents or causes to be presented any written, verbal, or digital material or statement as part of, in support of or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the material or statement contains false material information or withholds material information. (2) A person commits insurance fraud if he or she knowingly moves, diverts, or misappropriates premium funds belonging to an insurer or unearned premium funds belonging to an insured or applicant for insurance from a trust or other account without the authorization of the owner of the funds or other lawful justification. (3) A person commits insurance fraud if he or she with an intent to defraud makes, alters, presents, or causes to be presented a certificate or other evidence of the existence of insurance in any form that contains false material information or omits material information. (4)(a) Insurance fraud committed in violation of subsection (1)(a) of this section is a class 2 misdemeanor. (b) Insurance fraud committed in violation of subsections (1)(b) to (1)(e) or subsection (3) of this section is a class 6 felony. (c) Insurance fraud committed in violation of subsection (2) of this section is a class 5 felony. (5) The commissioner of insurance shall revoke the license to conduct business in this state of any licensed insurance producer under article 2 of title 10, C.R.S., who is convicted of any provision under this section. (6) No provision of this article 5 may be interpreted to supersede, limit, abrogate, or impair the ability of the prosecuting authority to concurrently bring charges for any other state criminal offense that is otherwise applicable in addition to any offenses described by this section. (7) As used in this section, unless the context otherwise requires: (a) "Claim" means a demand for money, property, or services pursuant to a contract of insurance as well as any documentation in support of such claim whether submitted contemporaneously with the claim or at a different time. A claim and any supporting information may be in written, verbal, or digital form. (b) "Insurance" has the same meaning as defined in section 10-1-102(12), C.R.S. (c) "Insurance producer" has the same meaning as defined in section 10-2-103(6), C.R.S. (d) "Insurer" has the same meaning as defined in section 10-1-102(13),C.R.S. (e) "Material information" is a statement or assertion directly pertaining to an application for insurance or an insurance claim that a reasonable person making such an assertion knows or should know will affect the action, conduct, or decision of the person who receives or is intended to receive the asserted information in a manner that would directly or indirectly benefit the person making the assertion. **Credits** *Added by Laws 2014, Ch. 190, § 1, eff. July 1, 2014. Amended by Laws 2017, Ch. 68, § 1, eff. Aug. 9, 2017; Laws 2021, Ch. 462 (S.B. 21-271), § 239, eff. March 1, 2022; Laws 2023, Ch. 298 (H.B. 23-1293), § 19, eff. Oct. 1, 2023.*
	Qui Tam Actions & Remedies
	C.R.S. 25.5-4-306 - Civil actions for false medicaid claims (1) **Responsibility of attorney general**. The attorney general shall diligently investigate a violation under section 25.5-4-305. If the attorney general finds that a person has violated or is violating section 25.5-4-305, the attorney general may bring a civil action under this section against the person. **(2) Actions by private persons.** (a) A relator may bring a civil action for a violation of section 25.5-4-305 on behalf of the relator and the state. The action shall be brought in the name of the state. The action may be dismissed only if the court and the attorney general give written consent to the dismissal and their reasons for consenting.

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	(b) A copy of the complaint and written disclosure of substantially all material evidence and information the relator possesses shall be served on the state pursuant to rule 4 of the Colorado rules of civil procedure. The complaint shall be filed in camera, shall remain under seal for at least sixty days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information. (c) The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (b) of this subsection (2). Any such motion may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to a complaint filed under this section until twenty days after the complaint is unsealed and served upon the defendant pursuant to rule 4 of the Colorado rules of civil procedure. (d) Before the expiration of the sixty-day period pursuant to paragraph (b) of this subsection (2) or any extensions obtained under paragraph (c) of this subsection (2), the state shall: (I) Proceed with the action, in which case the state shall conduct the action; or (II) Notify the court that it declines to take over the action, in which case the relator shall have the right to conduct the action. (e) When a relator brings an action under this subsection (2), no person other than the state may intervene or bring a related action based on the facts underlying the pending action. **(3) Rights of parties to private actions.** (a) If the state proceeds with an action brought under subsection (2) of this section, it shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the relator. The relator shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (b) of this subsection (3). (b) (I) The state may dismiss the action notwithstanding the objections of the relator if the relator has been notified by the state of the filing of the motion and the court has provided the relator with an opportunity for a hearing on the motion. (II) The state may settle the action with the defendant notwithstanding the objections of the relator if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera. (III) Upon a showing by the state that unrestricted participation during the course of the litigation by the relator would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the relator's participation, including but not limited to: (A) Limiting the number of witnesses the relator may call; (B) Limiting the length of the testimony of the witnesses; (C) Limiting the relator's cross-examination of witnesses; or (D) Otherwise limiting the participation by the relator in the litigation. (IV) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the relator would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the relator in the litigation. (c) If the state elects not to proceed with the action, the relator who initiated the action shall have the right to conduct the action. If the state so requests, it shall be served with copies of all pleadings filed in the action and, at the state's expense, shall be supplied with copies of all deposition transcripts. When a relator proceeds with the action, the court, without limiting the status and rights of the relator, may nevertheless permit the state to intervene at a later date upon a showing of good cause. (d) Regardless of whether the state proceeds with the action, upon a showing by the state that certain actions of discovery by the relator would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than sixty days. The showing shall be conducted in camera. The court may extend the sixty-day period upon a further showing

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	in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and that any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (e) Notwithstanding the provisions of subsection (2) of this section, the state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil money penalty. If an alternate remedy is pursued in another proceeding, the relator shall have the same rights in the proceeding as the relator would have had if the action had continued under this section. Any finding of fact or conclusion of law made in another proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of this paragraph (e), a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review. **(4) Award to private persons.** (a) (I) If the state proceeds with an action brought by a relator under subsection (2) of this section, the relator shall, subject to subparagraph (II) of this paragraph (a), receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the relator substantially contributed to the prosecution of the action. (II) If the court finds the action to be based primarily on disclosures of specific information, other than information provided by the relator, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or state auditor's report, hearing, audit, or investigation, or from the news media, the court may award to the relator such sums as it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the relator in advancing the case to litigation. (III) Any payment to a relator under subparagraph (I) or (II) of this paragraph (a) shall be made from the proceeds. The relator shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (b) If the state does not proceed with an action brought under subsection (2) of this section, the relator bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent and not more than thirty percent of the proceeds of the action or settlement and shall be paid out of the proceeds. The relator shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (c) Regardless of whether the state proceeds with an action brought under subsection (2) of this section, if the court finds that the action was brought by a relator who planned and initiated the violation of section 25.5-4-305 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the relator would otherwise receive under paragraph (a) or (b) of this subsection (4), taking into account the role of the relator in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the relator is convicted of criminal conduct arising from his or her role in the violation of section 25.5-4-305, the relator shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the state to continue the action. (d) If the state does not proceed with an action brought under subsection (2) of this section and the relator bringing the action conducts the action, the court may award to the defendant its reasonable attorney fees and expenses if the defendant prevails in the action and the court finds that the claim of the relator was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. **(5) Certain actions barred.** (a) A court shall not have jurisdiction over an action brought under this section against a member of the general assembly, a member of the state judiciary, or an elected official in the executive branch of the state of Colorado if the action is based on evidence or information known to the state when the action was brought. (b) A relator shall not bring an action under subsection (2) of this section that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the state is already a party. (c) (I) A court shall dismiss an action or claim brought under subsection (2) of this section unless opposed by the state, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a state criminal, civil, or administrative hearing in which the state or its agent is a party, in a legislative, administrative, or state auditor's report, hearing, audit, or investigation, or by the news media, unless the action is brought by the state or the relator is an original source of the information. (II) For purposes of this paragraph (c), "original source" means an individual who, prior to a public disclosure under subparagraph (I) of this paragraph (c), has voluntarily disclosed to the state the information on which the allegations or transactions in a claim are based, or who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and has voluntarily provided the information to the state before filing an action under subsection (2) of this section.

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	(6) State not liable for certain expenses. The state is not liable for expenses that a relator incurs in bringing an action under this section. **HISTORY:** Source: L. 2006: Entire article added with relocations, p. 1840, § 7, effective July 1.L. 2009: IP(1)(b), IP(1)(c), and (4) amended, *(SB 09-292), ch. 369, p. 1974, § 97*, effective August 5. L. 2010: Entire section R&RE, *(SB 10-167), ch. 296, p. 1382, § 13*, effective May 26.L. 2013: (2)(e), (5), and (7) amended, *(SB 13-205), ch. 276, p. 1441, § 5*, effective August 7. **C.R.S. 25.5-4-307 - False medicaid claims procedures - statute of limitations** (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 contends it is entitled to relief. For statute of limitations purposes, any such pleadings by the state shall relate back to the filing date of the relator's complaint, to the extent that the state's claim arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of the relator. (3) In an action brought under section 25.5-4-306, the state or relator must prove all essential elements of the cause of action, including damages, by a preponderance of the evidence. (4) Notwithstanding any other provision of law, the Colorado rules of criminal procedure, or the Colorado rules of evidence, a final judgment rendered in favor of the state in a criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and that is brought under section 25.5-4-306. (5) A private action for retaliation under section 25.5-4-306 (7) may not be brought more than three years after the date when the retaliation occurred. **HISTORY:** Source: L. 2010: Entire section added, *(SB 10-167), ch. 296, p. 1386, § 14*, effective May 26.L. 2013: (5) added, *(SB 13-205), ch. 276, p. 1442, § 6*, effective August 7. ---------- C.R.S. 25.5-4-308 - False medicaid claims jurisdiction An action under section 25.5-4-306 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, or transacts business or in which an act proscribed by section 25.5-4-305 occurred. A summons as required by the Colorado rules of civil procedure shall be issued by the appropriate district court and served at any place. **HISTORY:** Source: L. 2010: Entire section added, *(SB 10-167), ch. 296, p. 1387, § 14*, effective May 26. C.R.S. 25.5-4-309 - False medicaid claims civil investigation demands (1) General. (a) (I) Whenever the attorney general has reason to believe that a person may be in possession, custody, or control of documentary material or information relevant to a false medicaid claims law investigation, the attorney general may, before commencing a civil proceeding under section 25.5-4-306 or other false medicaid claims law or making an election under section 25.5-4-306 (2) (d), issue in writing and cause to be served upon the person a civil investigative demand requiring the person to: (A) Produce the documentary material for inspection and copying;

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	(B) Answer in writing written interrogatories with respect to the documentary material or information; (C) Give oral testimony concerning the documentary material or information; or (D) Furnish any combination of such material, answers, or testimony. (II) The attorney general may not delegate the authority to issue civil investigative demands under this subsection (1). Whenever a civil investigative demand is an express demand for any product of discovery, the attorney general, the deputy attorney general, or an assistant attorney general shall cause to be served, in any manner authorized by this section, a copy of the demand upon the person from whom the discovery was obtained and shall notify the person to whom the demand is issued of the date on which the copy was served. (b) (I) Each civil investigative demand issued under this subsection (1) shall state the nature of the conduct constituting the alleged violation of a false medicaid claims law that is under investigation and the applicable provision of law alleged to be violated. (II) If the demand is for the production of documentary material, the demand shall: (A) Describe each class of documentary material to be produced with such definiteness and certainty as to permit the material to be fairly identified; (B) Prescribe a return date for each such class that will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and (C) Identify the false medicaid claims law investigator to whom the material shall be made available. (III) If the demand is for answers to written interrogatories, the demand shall: (A) Specify the written interrogatories to be answered; (B) Prescribe dates on which answers to written interrogatories shall be submitted; and (C) Identify the false medicaid claims law investigator to whom the answers shall be submitted. (IV) If the demand is for the giving of oral testimony, the demand shall: (A) Prescribe a date, time, and place at which oral testimony shall be commenced and notify the deponent if the oral testimony is to be video or audio recorded; (B) Identify a false medicaid claims law investigator who shall conduct the examination and the custodian to whom the transcript of the examination shall be submitted; (C) Specify that such attendance and testimony are necessary to the conduct of the investigation; (D) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and (E) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, that will be taken pursuant to the demand. (V) A civil investigative demand issued under this section that is an express demand for any product of discovery shall not be returned or returnable until twenty days after a copy of the demand has been served upon the person from whom the discovery was obtained.

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	(VI) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date that is not less than seven days after the date on which the demand is received, unless the attorney general or an assistant attorney general designated by the attorney general determines that exceptional circumstances are present that warrant the commencement of the testimony within a lesser period of time. (VII) The attorney general shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the attorney general, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. Notwithstanding *section 24-31-103, C.R.S.*, the attorney general shall not authorize the performance, by any other officer, employee, or agency, of any function vested in the attorney general under this subparagraph (VII). (2) Protected material or information. (a) A civil investigative demand issued under subsection (1) of this section shall not require the production of documentary material, the submission of answers to written interrogatories, or the giving of oral testimony if the material, answers, or testimony would be protected from disclosure under: (I) The standards applicable to subpoenas or subpoenas duces tecum issued by a court of this state to aid in a grand jury investigation; or (II) The standards applicable to discovery requests under the Colorado rules of civil procedure, to the extent that the application of the standards to any such demand is appropriate and consistent with the provisions and purposes of this section. (b) A demand that is an express demand for a product of discovery supersedes any inconsistent order, rule, or provision of law, other than this section, preventing or restraining disclosure of the product of discovery to a person. Disclosure of a product of discovery pursuant to an express demand does not constitute a waiver of any right or privilege that the person making the disclosure may be entitled to invoke to resist discovery of trial preparation materials. (3) Service and jurisdiction. (a) A civil investigative demand issued under subsection (1) of this section or a petition brought pursuant to subsection (10) of this section may be served by a false medicaid claims law investigator, a sheriff, or a deputy sheriff at any place within the state. (b) A civil investigative demand issued under subsection (1) of this section or a petition filed under subsection (10) of this section may be served upon a person who is not found within the state in the manner prescribed by the Colorado rules of civil procedure for service in another state or a foreign country. To the extent that the courts of this state can assert jurisdiction over any such person consistent with due process, the district court for the city and county of Denver shall have the same jurisdiction to take an action respecting compliance with this section by any such person that the court would have if the person were personally within the jurisdiction of the court. (4) Service on legal entities and natural persons. (a) Service of a civil investigative demand issued under subsection (1) of this section or of a petition filed under subsection (10) of this section may be made upon a partnership, corporation, association, or other legal entity by: (I) Delivering an executed copy of the demand or petition to a partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to an agent authorized by appointment or by law to receive service of process on behalf of the partnership, corporation, association, or entity; (II) Delivering an executed copy of the demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or (III) Depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the partnership, corporation, association, or entity at its principal office or place of business. (b) Service of a civil investigative demand issued under subsection (1) of this section or of a petition filed under subsection (10) of this section may be made upon a natural person by: (I) Delivering an executed copy of the demand or petition to the person; or (II) Depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence, principal office, or place of business.

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	(5) Proof of service. A verified return by the individual serving a civil investigative demand issued under subsection (1) of this section or a petition filed under subsection (10) of this section setting forth the manner of the service shall be proof of the service. In the case of service by registered or certified mail, the return shall be accompanied by the return post office receipt of delivery of the demand. (6) Documentary material. (a) (I) The production of documentary material in response to a civil investigative demand issued under subsection (1) of this section shall be made under a sworn certificate, in the form as the demand designates, by: (A) In the case of a natural person, the person to whom the demand is directed; or (B) In the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. (II) The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false medicaid claims law investigator identified in the demand. (b) A person upon whom a civil investigative demand for the production of documentary material has been served under this section shall make the material available for inspection and copying to the false medicaid claims law investigator identified in the demand at the principal place of business of the person, or at such other place as the false medicaid claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (10) of this section. The material shall be made so available on the return date specified in the demand, or on such later date as the false medicaid claims law investigator may prescribe in writing. The person may, upon written agreement between the person and the false medicaid claims law investigator, substitute copies for originals of all or any part of the material. (7) Interrogatories. (a) Each interrogatory in a civil investigative demand issued under subsection (1) of this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in the form the demand designates, by: (I) In the case of a natural person, the person to whom the demand is directed; or (II) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory. (b) If an interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished. (8) Oral examinations. (a) The examination of a person pursuant to a civil investigative demand for oral testimony issued under subsection (1) of this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States, the state of Colorado, or the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or with the assistance of someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection (8) shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Colorado rules of civil procedure. (b) The false medicaid claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the state, any person who may be agreed upon by the attorney for the state and the person giving the testimony, the officer before whom the testimony is to be taken, and the stenographer who is recording the testimony. (c) The oral testimony of a person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the state within which the person resides, is found, or transacts business, or in another place as may be agreed upon by the false medicaid claims law investigator conducting the examination and the person. (d) When the testimony is fully transcribed, the false medicaid claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless the witness waives the examination and reading. Any changes in form or substance that the witness desires to make shall be entered and identified upon the transcript

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	by the officer or the false medicaid claims law investigator, with a statement of the reasons given by the witness for making the changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the witness does not sign the transcript within thirty days after being afforded a reasonable opportunity to examine it, the officer or the false medicaid claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or refusal to sign, together with the reasons, if any, given therefor. (e) The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false medicaid claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian. (f) Upon payment of reasonable charges therefor, the false medicaid claims law investigator shall furnish a copy of the transcript to the witness only; except that the attorney general, the deputy attorney general, or an assistant attorney general may, for good cause, limit the witness to inspection of the official transcript of the testimony of the witness. (g) (I) A person compelled to appear for oral testimony under a civil investigative demand issued under subsection (1) of this section may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, with respect to any question asked of the person. The person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. The person may not otherwise object to or refuse to answer any question and may not directly or through counsel otherwise interrupt the oral examination. If the person refuses to answer a question, the false medicaid claims law investigator may file a petition in a district court under paragraph (a) of subsection (10) of this section for an order compelling the person to answer the question. (II) If the person refuses to answer a question on the grounds of the privilege against self-incrimination, the false medicaid claims law investigator may compel the testimony of the person in accordance with the provisions of *section 13-90-118, C.R.S.* (III) A person appearing for oral testimony under a civil investigative demand issued under subsection (1) of this section shall be entitled to the same fees and allowances that are paid to witnesses in the district courts of this state. (9) Custodian of documents, answers, and transcripts. (a) The attorney general shall designate a false medicaid claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section and shall designate such additional false medicaid claims law investigators as the attorney general determines from time to time to be necessary to serve as deputies to the custodian. (b) (I) A false medicaid claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of the material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (d) of this subsection (9). (II) The custodian may cause the preparation of copies of the documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by a false medicaid claims law investigator or other officer or employee of the department of law who is authorized for such use under regulations that the attorney general shall issue. The material, answers, and transcripts may be used by any such authorized false medicaid claims law investigator or other officer or employee in connection with the taking of oral testimony under this section. (III) (A) Except as otherwise provided in this subsection (9), documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall not be available for examination by an individual other than a false medicaid claims law investigator or other officer or employee of the department of law authorized under subparagraph (II) of this paragraph (b). (B) Sub-subparagraph (A) of this subparagraph (III) shall not apply if consent is given by the person who produced the material, answers, or transcripts or, in the case of any product of discovery produced pursuant to an express demand for the material, if consent is given by the person from whom the discovery was obtained. (C) Nothing in this subparagraph (III) is intended to prevent disclosure to the general assembly, including any committee of the general assembly, or to any other agency of the state for use by the agency in furtherance of its statutory responsibilities. Disclosure of information to any such other agency shall be allowed only upon application, made by the attorney general to a district court, showing substantial need for the use of the information by the agency in furtherance of its statutory responsibilities. (IV) While in the possession of the custodian and under such reasonable terms and conditions as the attorney general shall prescribe:

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	(A) Documentary material and answers to interrogatories shall be available for examination by the person who produced the material or answers, or by a representative of that person authorized by that person to examine the material and answers; and (B) Transcripts of oral testimony shall be available for examination by the person who produced the testimony or by a representative of that person authorized by that person to examine the transcripts. (c) Whenever an attorney of the department of law has been designated to appear before a court, grand jury, or state agency in a case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to the attorney such material, answers, or transcripts for official use in connection with the case or proceeding as the attorney determines to be required. Upon the completion of the case or proceeding, the attorney shall return to the custodian the material, answers, or transcripts so delivered that are not in the control of the court, grand jury, or agency through introduction into the record of the case or proceeding. (d) The custodian shall, upon written request of a person who produced any documentary material in the course of any false medicaid claims law investigation pursuant to a civil investigative demand under this section, return to the person any such material, other than copies furnished to the false medicaid claims law investigator under paragraph (b) of subsection (6) of this section or made for the department of law under subparagraph (II) of paragraph (b) of this subsection (9), that is not in the control of a court, grand jury, or agency through introduction into the record of the case or proceeding, if: (I) A case or proceeding before a court or grand jury arising out of the investigation or any proceeding before a state agency involving the material has been completed; or (II) A case or proceeding in which the material may be used has not been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of the investigation. (e) (I) In the event of the death, disability, or separation from service in the department of law of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of the custodian from responsibility for the custody and control of the material, answers, or transcripts, the attorney general shall promptly: (A) Designate another false medicaid claims law investigator to serve as custodian of the material, answers, or transcripts; and (B) Transmit in writing to the person who produced the material, answers, or testimony notice of the identity and address of the successor so designated. (II) A person who is designated to be a successor under this paragraph (e) shall have, with regard to the material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office; except that the successor shall not be held responsible for any default or dereliction that occurred before that designation. (10) Judicial proceedings. (a) Whenever a person fails to comply with a civil investigative demand issued under subsection (1) of this section, or whenever satisfactory copying or reproduction of the material requested in a demand cannot be done and the person refuses to surrender the material, the attorney general may file, in a district court for the judicial district in which the person resides, is found, or transacts business, and serve upon the person a petition for an order of the court for the enforcement of the civil investigative demand. (b) (I) A person who has received a civil investigative demand issued under subsection (1) of this section may file a petition for an order of the court to modify or set aside the demand. The person shall file the petition in a district court for the judicial district within which the person resides, is found, or transacts business and shall serve a copy of the petition upon the false medicaid claims law investigator identified in the demand. In the case of a petition addressed to an express demand for a product of discovery, the person may file a petition to modify or set aside the demand only in the district court for the judicial district in which the proceeding in which the discovery was obtained is or was last pending. The person shall file a petition under this subparagraph (I): (A) Within twenty days after the date of service of the civil investigative demand or at any time before the return date specified in the demand, whichever date is earlier; or (B) Within such longer period as may be prescribed in writing by a false medicaid claims law investigator identified in the demand. (II) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (I) of this paragraph (b) and may be based upon any failure of the demand to comply with the provisions of

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	this section or upon any constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part; except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside. (c) (I) In the case of a civil investigative demand issued under subsection (1) of this section that is an express demand for a product of discovery, the person from whom the discovery was obtained may file a petition for an order of the court to modify or set aside those portions of the demand requiring production of any product of discovery. The person shall file the petition in the district court for the judicial district in which the proceeding in which the discovery was obtained is or was last pending and shall serve a copy of the petition upon the false medicaid claims law investigator identified in the demand and upon the recipient of the demand. The person shall file a petition under this subparagraph (I): (A) Within twenty days after the date of service of the civil investigative demand or at any time before the return date specified in the demand, whichever date is earlier; or (B) Within such longer period as may be prescribed in writing by the false medicaid claims law investigator identified in the demand. (II) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (I) of this paragraph (c), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand. (d) At any time during which a custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by a person in compliance with a civil investigative demand issued under subsection (1) of this section, the person, and in the case of an express demand for any product of discovery, the person from whom the discovery was obtained, may file a petition for an order of the court to require the performance by the custodian of any duty imposed upon the custodian by this section. The person shall file the petition in the district court for the judicial district within which the office of the custodian is situated and shall serve a copy of the petition upon the custodian. (e) Whenever a petition is filed in a district court under this subsection (10), the court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry out the provisions of this section. A final order so entered shall be subject to appeal under *section 13-4-102, C.R.S.* Any disobedience of a final order entered by a court under this section shall be punished as a contempt of the court. (f) The Colorado rules of civil procedure shall apply to a petition under this subsection (10) to the extent that the rules are consistent with the provisions of this section. (11) Disclosure exemption. Any documentary material, answers to written interrogatories, or oral testimony provided under a civil investigative demand issued under subsection (1) of this section shall be exempt from disclosure under *section 24-72-203, C.R.S.* (12) Definitions. As used in this section, unless the context otherwise requires: (a) "Custodian" means the custodian, or any deputy custodian, designated by the attorney general under paragraph (a) of subsection (9) of this section. (b) "Documentary material" means the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations, and any product of discovery. (c) "False medicaid claims law" means: (I) This section and sections 25.5-4-303.5 to 25.5-4-308; and (II) Any law enacted before, on, or after May 26, 2010, that prohibits or makes available to the state in a court of the state a civil remedy with respect to a false medicaid claim against, bribery of, or corruption of an officer or employee of the state. (d) "False medicaid claims law investigation" means an inquiry conducted by a false medicaid claims law investigator for the purpose of ascertaining whether a person is or has been engaged in a violation of a false

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	medicaid claims law. (e) "False medicaid claims law investigator" means an attorney or investigator employed by the department of law who is charged with the duty of enforcing or carrying into effect a false medicaid claims law or an officer or employee of the state acting under the direction and supervision of the attorney or investigator in connection with a false medicaid claims law investigation. (f) "Person" means a natural person, partnership, corporation, association, or other legal entity. (g) "Product of discovery" means: (I) The original or duplicate of a deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, any one of which is obtained by a method of discovery in a judicial or administrative proceeding of an adversarial nature; (II) A digest, analysis, selection, compilation, or derivation of an item listed in subparagraph (I) of this paragraph (g); and (III) An index or other manner of access to an item listed in subparagraph (I) of this paragraph (g). **HISTORY:** Source: L. 2010: Entire section added, *(SB 10-167), ch. 296, p. 1387, § 14*, effective May 26. C.**R.S.A. § 24-31-1204** **§ 24-31-1204. Civil actions for false claims--claims for retaliation--definitions** Currentness (1) Responsibility of attorney general. (a) The attorney general shall diligently investigate a violation of section 24-31-1203. If the attorney general finds that a person has violated or is violating section 24-31-1203, the attorney general may bring a civil action against the person pursuant to this section. (b) In any action brought pursuant to this part 12 in which the attorney general is a party, either as the plaintiff or as an intervenor, the court may dismiss the action upon motion of the attorney general following the notice and opportunity for a hearing pursuant to subsection (4)(b)(I) of this section. In determining whether to file a motion to dismiss, the attorney general shall consider the severity of the false claim, program or population impacted by the false claim, duration of the fraud, weight and materiality of the evidence, other means to make the program whole, and other factors the attorney general deems relevant. The attorney general's decision-making process concerning a motion to dismiss and any records related to the decision-making process are not discoverable in any action. (2) Role of the office of the state auditor. (a) Notwithstanding any other state law requiring the state auditor to keep information confidential, if in the course of its audit authority, the office of the state auditor identifies information of potential false claims submitted to the state or a political subdivision, the state auditor may share any information with the attorney general or the political subdivision. The state auditor may participate, with the consent of the attorney general, in any subsequent investigation or prosecution of that false claim. (b) If the state auditor elects to participate in any investigation and prosecution of a false claim, the state auditor's interests will be represented by the attorney general. (**3) Actions by private persons. (a**) A person may bring a civil action for a violation of section 24-31-1203 for the person and for the state. The action must be brought in the name of the state. The court shall not dismiss an action upon motion of the private person who brought the action unless the attorney general gives written consent to the dismissal and reasons for consenting. (b)(I) A person who brings an action shall serve on the state, pursuant to rule 4 of the Colorado rules of civil procedure, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses; except that the person shall not disclose any evidence or information that the person reasonably believes is protected by the defendant's attorney-client privilege unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3(d)(2), the applicable Colorado rules of professional conduct, or otherwise. The complaint must be filed in camera, must remain under seal for at least sixty-three days, and must not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty-three days after it receives both the complaint and the material evidence and information. (II) In determining whether to intervene and proceed with an action pursuant to this subsection (3)(b), the attorney general shall consider the factors described in subsection (1)(b) of this section. The attorney general's decision-making process concerning whether to intervene and any records related to the decision-making process are not discoverable in any action. (c) The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal pursuant to subsection (3)(b) of this section. The motion may be supported by affidavits or other submissions in camera. The defendant is not required to respond to any complaint filed pursuant to this section until twenty-one days after the complaint is unsealed and served upon the defendant pursuant to rule 4 of the Colorado rules of civil procedure. (d) Before the expiration of the sixty-three-day period pursuant to subsection (3)(b) of this section and any extensions obtained pursuant to subsection (3)(c) of this section, the state shall:

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	(I) Proceed with the action, in which case the state shall conduct the action; or (II) Notify the court that it declines to take over the action, in which case the person who brought the action has the right to continue the action. (e) When a person brings an action pursuant to this subsection (3), only the state may intervene or bring a related action based on the facts underlying the pending action. (f) Any information provided by a person to the state pursuant to this subsection (3) is exempt from disclosure pursuant to the "Colorado Open Records Act", part 2 of article 72 of this title 24. (**4) Rights of parties to private actions.** (a) If the state proceeds with an action brought pursuant to subsection (3) of this section, it has the primary responsibility for prosecuting the action and is not bound by an act of the person who brought the action. The person has the right to continue as a party to the action, subject to the limitations set forth in subsection (3)(b) of this section. (b)(I) The state may, at any time, dismiss the action, in whole or in part, notwithstanding the objections of the person who brought the action if the person has been notified by the state of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion. (II) The state may settle the action with the defendant notwithstanding the objections of the person who brought the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the court may hold the hearing in camera. (III) Upon a showing by the state that unrestricted participation during the course of the litigation by the person who brought the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including but not limited to: (A) Limiting the number of witnesses the person may call; (B) Limiting the length of the testimony of the witnesses called by the person; (C) Limiting the person's cross-examination of witnesses; and (D) Otherwise limiting the participation by the person in the litigation. (IV) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person who brought the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation as described in subsection (4)(b)(III) of this section. (c) The fact that the state has elected not to proceed with an action is not a basis for a motion to dismiss, motion for determination of a question of law, or motion for summary judgment, nor is it a basis to deny the court jurisdiction over the action, but if the attorney general submits to the court the attorney general's reasons for not proceeding with the action, the court may consider the reasons when deciding a motion or whether the court has jurisdiction. If the state so requests, it must be served with copies of all pleadings filed in the action and, at the state's expense, be supplied with copies of all deposition transcripts. When the person proceeds with the action, the court, without limiting the status and rights of the person, may nevertheless permit the state to intervene at a later date upon a showing of good cause. (d) Regardless of whether the state proceeds with the action, upon a showing by the state or political subdivision that certain actions of discovery by the person who brought the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than sixty-three days. The showing by the state must be conducted in camera. The court may extend the sixty-three-day period upon a further showing that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and that any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (e) Notwithstanding subsection (3) of this section, the state may elect to pursue its claim through any alternate remedy available to the state. If an alternate remedy is pursued in another proceeding, the person who brought the action pursuant to subsection (3) of this section has the same rights in that proceeding as the person would have had if the action had continued pursuant to this section. Any finding of fact or conclusion of law made in the other proceeding that has become final is binding on all parties to an action brought pursuant to this section. For purposes of this subsection (4)(e), a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review. (5) Award to a person who brings an action. (a) (I) Subject to subsection (5)(a)(II) of this section, if the state proceeds with an action brought by a person pursuant to subsection (3) of this section, the court shall award the person at least fifteen percent but not more than twenty-five percent of the proceeds received from the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the investigation and prosecution of the action. (II) If the court finds the action to be based primarily on disclosures of specific information, other than information provided by the person who brought the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, or formal audit report, hearing, or investigation; or from the news media, the court may award to the person such sums as it considers appropriate but in no case more than ten percent of the proceeds. In making its determination, the court shall consider the significance of the information provided by the person and the role of the person in advancing the case to litigation. (III) Any payment to a person made pursuant to this subsection (5)(a) must be made from the proceeds. In addition to an award made pursuant to subsection (5)(a)(I) or (5)(a)(II) of this section, the court shall award the person an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The court shall award all of the expenses, fees, and costs against the defendant. (IV) If the person who brought the action is a government employee who, in the course of the person's work for the state gains knowledge of any information that forms, in whole or in part, the basis of the person's claim, the court shall award to the state that employs the person the amount that would otherwise be awarded to the person pursuant to this subsection (5). (b) If the state does not intervene in and proceed with an action pursuant to subsection (3)(b) of this section, the person prevailing in the action or settling the claim must receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount must be at least twenty-five percent but not more than thirty percent of the proceeds received from the action or settlement and must be paid out of the proceeds. The court shall award the person an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The court shall award all of the expenses, fees, and costs against the defendant.

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	(c) Regardless of whether the state intervenes in and proceeds with an action pursuant to subsection (3)(b) of this section, if the court finds that the action was brought by a person who planned and initiated the violation of section 24-31-1203 upon which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the person would otherwise receive pursuant to this subsection (5), taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person is convicted of criminal conduct arising from his or her role in the violation of section 24-31-1203, the court shall dismiss the person from the civil action and the person must not receive any share of the proceeds of the action. Such dismissal does not prejudice the right of the state to continue the action. (d) If the state does not intervene in and proceed with an action pursuant to subsection (3)(b) of this section and the person who brought the action pursues the action, the court may award to the defendant reasonable attorney fees and expenses if the defendant prevails in the action and the court finds that the claim of the person was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. (6) Certain actions barred. (a) A court does not have jurisdiction over an action brought pursuant to this section: (I) Against a serving member of the general assembly, a member of the state judiciary, an executive director of a state agency, or an elected official in the executive branch of the state of Colorado acting in the member's, executive director's, or official's official capacity; (II) Against a serving elected official of a political subdivision, a member of a political subdivision's judiciary, or an appointed official of a political subdivision acting in the member's or official's official capacity; or (III) If the action is brought by a person pursuant to subsection (3) of this section and is based on evidence or information known to the state when the action was brought. (b) A person may not bring an action pursuant to subsection (3) of this section that is based upon allegations or transactions that are the subject of a civil suit in a court of this state or an administrative civil money penalty proceeding in which the state is already a party. (c)(I) A court shall dismiss an action or claim brought pursuant to subsection (3) of this section if the action pursued by the person is based upon substantially the same allegations or transactions publicly disclosed in a criminal, civil, or administrative hearing; in a legislative, administrative, or formal audit report, hearing, or investigation; or from the news media, unless: (A) The state intervenes and prosecutes the action pursuant to subsection (3)(b) of this section; (B) The state opposes dismissal; or (C) The person who brought the action is an original source of the information that is the basis for the action. (II) As used in this subsection (6)(c), "original source" means an individual who: (A) Prior to public disclosure pursuant to subsection (6)(c)(I) of this section, has voluntarily disclosed to the state the information on which the allegations or transactions in a claim are based; or (B) Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions and has voluntarily provided the information to the state before filing an action pursuant to subsection (3) of this section. (7) State not liable for certain expenses. The state is not liable for expenses that a person incurs in bringing an action pursuant to subsection (3) of this section. (**8) Private action for retaliation. (a**) As used in this subsection (8), unless the context otherwise requires: (I) "Confidential information" includes documents; e-mails and other electronic data; medical records; financial records; trade secret information; intellectual property; or information that is subject to an employment agreement, confidentiality agreement, or nondisclosure agreement or for which the person who brought the action pursuant to subsection (3) of this section has a fiduciary obligation to maintain as confidential. Confidential information does not include information that is protected by the defendant's attorney-client privilege unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3 (d)(2), the applicable Colorado rules of professional conduct, or otherwise. (II) "Lawful acts" includes, but is not limited to, the following: (A) Conducting or assisting with an investigation for, initiation of, testimony for, or assistance in an action filed or to be filed pursuant to this section, or conducting or assisting with an investigation when there is a reasonable belief of a potential violation of this section; (B) Meeting with potential or retained counsel or agents or representatives of the state about the matter that is the subject of an action filed or to be filed pursuant to this section; (C) Providing the individual's counsel or agents or representatives of the state with confidential information; or (D) Filing an action pursuant to this section. (b) An employee, contractor, or agent is entitled to all relief necessary to make that individual whole if the individual is discharged, demoted, suspended, threatened, harassed, intimidated, sued, defamed, blacklisted, or in any other manner retaliated against or discriminated against in the terms and conditions of the individual's employment, contract, business, or profession by the defendant or by any other person because of lawful acts done by the individual or associated others in furtherance of an action brought pursuant to this section or in furtherance of an effort to stop any violation, or what the individual reasonably believes to be a violation, of section 24-31-1203. (c)(I) If the disclosure of confidential information is in furtherance of an action brought pursuant to this section or in furtherance of an effort to stop any violation, or what the individual reasonably believes to be a violation, of section 24-31-1203, an individual has a privilege to disclose the confidential information to: (A) The individual's counsel; (B) A person with whom the individual has a statutory or common law privilege; or (C) An agent or authorized representative of the state.

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	(II) The individual's disclosure of confidential information to the individual's counsel or to an agent or authorized representative of the state does not constitute a waiver by a defendant of any right or privilege that the defendant may be entitled to invoke. (d)(I) An individual seeking relief pursuant to this subsection (8) may seek relief by: (A) Filing a motion in the action brought pursuant to subsection (3) of this section; or (B) Bringing a separate action in an appropriate court of the state for the relief provided pursuant to this subsection (8). (II) An individual who seeks relief pursuant to this subsection (8) is entitled to all relief necessary to make the individual whole. The relief must include, but is not limited to: (A) If the individual is an employee, reinstatement with the same seniority status the individual would have had but for the discrimination, twice the amount of back pay, and interest on the back pay; (B) If the individual is a contractor, subcontractor, or independent contractor, reinstatement of a contract or subcontract that was canceled, nonrenewed, or modified because of retaliation, with all compensation or contractual consideration that the individual would have received had the contract or subcontract not been canceled, nonrenewed, or modified; and (C) Compensation for any special damages sustained as a result of the discrimination or retaliation, including litigation costs and reasonable attorney fees. (e)(I) The court shall award the individual not less than the damages described in subsection (8)(d)(II) of this section if a defendant, employer, or other person retaliates against an individual by bringing another action against the individual for: (A) Acts later determined to be lawful acts; (B) Disclosure of confidential information to counsel or an agent or representative of the state pursuant to this subsection (8); (C) Violating an employment contract, confidentiality agreement, nondisclosure agreement, or other agreement; or (D) Committing any other tort or breach of duty and the court hearing the action determines by a preponderance of the evidence that the defendant, employer, or other person brought the lawsuit against the individual for the purpose of retaliating against the individual. (II) In addition to any other remedy or share of the proceeds of the action to which the individual is entitled pursuant to this subsection (8) and regardless of whether the individual is determined to be entitled to share in the proceeds of the action or claim filed pursuant to subsection (3) of this section, in addition to any other consequential damages permitted by law, the damages for a violation of this subsection (8)(e) must be not less than: (A) Twice the individual's actual attorney fees and costs if the defendant, employer, or other person brought the lawsuit against the individual in a court in the state of Colorado; or (B) Three times the individual's actual attorney fees and costs if the defendant, employer, or other person brought the lawsuit in a jurisdiction outside of Colorado. (f)(I) The court hearing the action brought pursuant to subsection (3) of this section has jurisdiction to hear a private action or motion for retaliation brought pursuant to this subsection (8). (II) Upon motion by the individual, the venue of an action filed in another court of the state of Colorado against the individual by the defendant, the employer of the person who brought the action pursuant to subsection (3) of this section, or other person arising out of the subject matter of the action brought pursuant to subsection (3) of this section must be changed to the court hearing the action brought pursuant to subsection (3) of this section. (9) Discovery in other actions. (a) If a person who brings an action pursuant to subsection (3) of this section is a party to or witness in an action other than an action brought pursuant to subsection (3) of this section, referred to in this subsection (9) as an "other action", and a party in the other action seeks discovery from the person of information about other lawsuits, which discovery would require the person to disclose information about an action filed pursuant to subsection (3) of this section while that action is still under seal, the person shall: (I) Within a reasonable time, notify the state investigating the action brought pursuant to subsection (3) of this section of the pending discovery request; and (II) Respond to the discovery request by stating only that the matter is confidential, without further elaboration, and shall maintain that response until the state elects to proceed or not proceed with the action brought pursuant to subsection (3) of this section or until the court lifts the seal. (b) If necessary, in any other action, a person who brought the action pursuant to subsection (3) of this section or the attorney general may file an ex parte motion, in camera and under seal, seeking a protective order or an extension of time for the person to respond to a discovery request. If a party in the other action moves to compel an answer to the discovery, the person who brought the action pursuant to subsection (3) of this section shall file, ex parte and in camera, a response to the motion to compel, in which the attorney general may join. The response to the motion to compel must remain under seal until such time as the state elects to proceed or not proceed with the action or until such time as the court lifts the seal. (c) Notwithstanding any provision of this subsection (9) to the contrary, information about an action filed pursuant to subsection (3) of this section that is protected by the defendant's attorney-client privilege is not discoverable in any other action unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3(d)(2), the applicable Colorado rules of professional conduct, or otherwise. Credits Added by Laws 2022, Ch. 394 (H.B. 22-1119), § 2, eff. Aug. 10, 2022. Amended by Laws 2023, Ch. 303 (H.B. 23-1301), § 32, eff. Aug. 7, 2023. C. R. S. A. § 24-31-1204, CO ST § 24-31-1204 Current through legislation effective August 7, 2024 of the Second Regular Session, 74th General Assembly (2024). Some statute sections may be more current. See credits for details.

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	Whistle-blower Protections
	C.**R.S.A. § 24-31-1204** **§ 24-31-1204. Civil actions for false claims--claims for retaliation--definitions** Currentness (**8) Private action for retaliation. (a**) As used in this subsection (8), unless the context otherwise requires: (I) "Confidential information" includes documents; e-mails and other electronic data; medical records; financial records; trade secret information; intellectual property; or information that is subject to an employment agreement, confidentiality agreement, or nondisclosure agreement or for which the person who brought the action pursuant to subsection (3) of this section has a fiduciary obligation to maintain as confidential. Confidential information does not include information that is protected by the defendant's attorney-client privilege unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3 (d)(2), the applicable Colorado rules of professional conduct, or otherwise. (II) "Lawful acts" includes, but is not limited to, the following: (A) Conducting or assisting with an investigation for, initiation of, testimony for, or assistance in an action filed or to be filed pursuant to this section, or conducting or assisting with an investigation when there is a reasonable belief of a potential violation of this section; (B) Meeting with potential or retained counsel or agents or representatives of the state about the matter that is the subject of an action filed or to be filed pursuant to this section; (C) Providing the individual's counsel or agents or representatives of the state with confidential information; or (D) Filing an action pursuant to this section. (b**) An employee, contractor, or agent is entitled to all relief necessary to make that individual whole if the individual is discharged, demoted, suspended, threatened, harassed, intimidated, sued, defamed, blacklisted, or in any other manner retaliated against or discriminated against in the terms and conditions of the individual's employment, contract, business, or profession by the defendant or by any other person because of lawful acts done by the individual or associated others in furtherance of an action brought pursuant to this section or in furtherance of an effort to stop any violation, or what the individual reasonably believes to be a violation, of section 24-31-1203.** (c)(I) If the disclosure of confidential information is in furtherance of an action brought pursuant to this section or in furtherance of an effort to stop any violation, or what the individual reasonably believes to be a violation, of section 24-31-1203, an individual has a privilege to disclose the confidential information to: (A) The individual's counsel; (B) A person with whom the individual has a statutory or common law privilege; or (C) An agent or authorized representative of the state. (II) The individual's disclosure of confidential information to the individual's counsel or to an agent or authorized representative of the state does not constitute a waiver by a defendant of any right or privilege that the defendant may be entitled to invoke. (d)(I) An individual seeking relief pursuant to this subsection (8) may seek relief by: (A) Filing a motion in the action brought pursuant to subsection (3) of this section; or (B) Bringing a separate action in an appropriate court of the state for the relief provided pursuant to this subsection (8). (II) An individual who seeks relief pursuant to this subsection (8) is entitled to all relief necessary to make the individual whole. The relief must include, but is not limited to: (A) If the individual is an employee, reinstatement with the same seniority status the individual would have had but for the discrimination, twice the amount of back pay, and interest on the back pay; (B) If the individual is a contractor, subcontractor, or independent contractor, reinstatement of a contract or subcontract that was canceled, nonrenewed, or modified because of retaliation, with all compensation or contractual consideration that the individual would have received had the contract or subcontract not been canceled, nonrenewed, or modified; and (C) Compensation for any special damages sustained as a result of the discrimination or retaliation, including litigation costs and reasonable attorney fees. (e)(I) The court shall award the individual not less than the damages described in subsection (8)(d)(II) of this section if a defendant, employer, or other person retaliates against an individual by bringing another action against the individual for: (A) Acts later determined to be lawful acts; (B) Disclosure of confidential information to counsel or an agent or representative of the state pursuant to this subsection (8); (C) Violating an employment contract, confidentiality agreement, nondisclosure agreement, or other agreement; or (D) Committing any other tort or breach of duty and the court hearing the action determines by a preponderance of the evidence that the defendant, employer, or other person brought the lawsuit against the individual for the purpose of retaliating against the individual.

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	(II) In addition to any other remedy or share of the proceeds of the action to which the individual is entitled pursuant to this subsection (8) and regardless of whether the individual is determined to be entitled to share in the proceeds of the action or claim filed pursuant to subsection (3) of this section, in addition to any other consequential damages permitted by law, the damages for a violation of this subsection (8)(e) must be not less than: (A) Twice the individual's actual attorney fees and costs if the defendant, employer, or other person brought the lawsuit against the individual in a court in the state of Colorado; or (B) Three times the individual's actual attorney fees and costs if the defendant, employer, or other person brought the lawsuit in a jurisdiction outside of Colorado. (f)(I) The court hearing the action brought pursuant to subsection (3) of this section has jurisdiction to hear a private action or motion for retaliation brought pursuant to this subsection (8). (II) Upon motion by the individual, the venue of an action filed in another court of the state of Colorado against the individual by the defendant, the employer of the person who brought the action pursuant to subsection (3) of this section, or other person arising out of the subject matter of the action brought pursuant to subsection (3) of this section must be changed to the court hearing the action brought pursuant to subsection (3) of this section. (9) Discovery in other actions. (a) If a person who brings an action pursuant to subsection (3) of this section is a party to or witness in an action other than an action brought pursuant to subsection (3) of this section, referred to in this subsection (9) as an "other action", and a party in the other action seeks discovery from the person of information about other lawsuits, which discovery would require the person to disclose information about an action filed pursuant to subsection (3) of this section while that action is still under seal, the person shall: (I) Within a reasonable time, notify the state investigating the action brought pursuant to subsection (3) of this section of the pending discovery request; and (II) Respond to the discovery request by stating only that the matter is confidential, without further elaboration, and shall maintain that response until the state elects to proceed or not proceed with the action brought pursuant to subsection (3) of this section or until the court lifts the seal. (b) If necessary, in any other action, a person who brought the action pursuant to subsection (3) of this section or the attorney general may file an ex parte motion, in camera and under seal, seeking a protective order or an extension of time for the person to respond to a discovery request. If a party in the other action moves to compel an answer to the discovery, the person who brought the action pursuant to subsection (3) of this section shall file, ex parte and in camera, a response to the motion to compel, in which the attorney general may join. The response to the motion to compel must remain under seal until such time as the state elects to proceed or not proceed with the action or until such time as the court lifts the seal. (c) Notwithstanding any provision of this subsection (9) to the contrary, information about an action filed pursuant to subsection (3) of this section that is protected by the defendant's attorney-client privilege is not discoverable in any other action unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3(d)(2), the applicable Colorado rules of professional conduct, or otherwise. Credits Added by Laws 2022, Ch. 394 (H.B. 22-1119), § 2, eff. Aug. 10, 2022. Amended by Laws 2023, Ch. 303 (H.B. 23-1301), § 32, eff. Aug. 7, 2023. C. R. S. A. § 24-31-1204, CO ST § 24-31-1204 Current through legislation effective August 7, 2024 of the Second Regular Session, 74th General Assembly (2024). Some statute sections may be more current. See credits for details. **C.R.S. 25.5-4-306 - Civil actions for false medicaid claims** **(7) Private action for retaliation.** (a) An employee, contractor, or agent shall be entitled to all relief necessary to make the employee, contractor, or agent whole, if the employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by the defendant or by any other person because of lawful acts done by the employee, contractor, or agent, or associated others in furtherance of an action under this section or in furtherance of an effort to stop any violations of section 25.5-4-305. (b) (I) An employee, contractor, or agent who seeks relief pursuant to this subsection (7) shall be entitled to all relief necessary to make the employee, contractor, or agent whole. Such relief shall include: (A) Reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, twice the amount of back pay, and interest on the back pay; and (B) Compensation for any special damages sustained as a result of the discrimination or retaliation, including litigation costs and reasonable attorney fees. (II) An employee, contractor, or agent may bring an action in the appropriate court of the state for the relief provided in this subsection (7). **HISTORY:** Source: L. 2006: Entire article added with relocations, p. 1840, § 7, effective July 1.L. 2009: IP(1)(b), IP(1)(c), and (4) amended, *(SB 09-292), ch. 369, p. 1974, § 97*, effective August 5. L. 2010: Entire section R&RE, *(SB 10-167), ch. 296, p. 1382, § 13*, effective May 26.L. 2013: (2)(e), (5), and (7) amended, *(SB 13-205), ch. 276, p. 1441, § 5*, effective August 7.

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	C.R.S. 8-2-123 **Health care workers - retaliation prohibited – definitions** (1) As used in this section: (a) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below-standard performance evaluation, reduction in force, withholding of work, changes in work hours, negative reference, creating or tolerating a hostile work environment, or the threat of any such discipline or penalty. "Disciplinary action" shall not include action taken that is related to staffing or patient care needs. (b) "Good faith report or disclosure" means a report regarding patient safety information or quality of patient care that is made without malice or consideration of personal benefit and that the health-care worker making the report has reasonable cause to believe is true. "Good faith report or disclosure" also includes, with respect to patient care, a report regarding any practice, procedure, action, or failure to act with regard to patient safety that concerns information regarding a generally accepted standard of care; a law, rule, regulation, or declaratory ruling adopted pursuant to law; or compliance with a professional licensure requirement, which report is made without malice or consideration of personal benefit and that the health-care worker making the report has reasonable cause to believe is true. (c) "Health-care provider" means any health-care facility licensed under section 25-3-101, C.R.S., or any individual who is authorized to practice some component of the healing arts by license, certificate, or registration. (d) "Health-care worker" means any person certified, registered, or licensed pursuant to article 200, 215, 220, 225, 240, 245, or 255 to 300 of title 12 or certified or licensed pursuant to section 25-3.5-203. (2)(a) A health-care provider shall not take disciplinary action against a health-care worker in retaliation for making a good faith report or disclosure. (b) Paragraph (a) of this subsection (2) shall not apply to a health-care worker who discloses information that the worker knows to be false, who discloses information with disregard for the truth or falsity thereof, or who discloses information without fully complying with subsection (3) of this section. (c) Nothing in this section shall be construed to grant immunity to a health-care worker for his or her own acts of medical negligence, for unprofessional conduct subject to professional review activities authorized by state or federal law, for a breach of a professional licensure requirement, or for a violation of any state or federal law requiring confidentiality of patient information. (3) When making a good faith report or disclosure regarding patient safety or quality of patient care, a health-care worker shall follow the internal reporting procedures of the health-care provider, to the extent such procedures exist and are provided to the health-care worker in writing, and shall exhaust such procedures prior to pursuing any further reporting or disclosure activity. (4) Nothing in this section shall prevent a health-care provider from taking disciplinary action against a health-care worker for reasons other than those specified in subsection (2) of this section. (5) Nothing in this section shall be construed to preempt existing laws, regulations, or rules pertaining to patient care, including professional review proceedings for health professionals or for physicians pursuant to part 2 of article 30 of title 12, or quality and safety standards for a health-care facility licensed pursuant to section 25-3-101. Credits Added by Laws 2007, Ch. 67, § 2, eff. March 29, 2007. Amended by Laws 2019, Ch. 136 (H.B. 19-1172), § 19, eff. Oct. 1, 2019; Laws 2019, Ch. 396 (S.B. 19-242), § 4, eff. May 31, 2019.
Florida Fla. Stat. § 68.081, et seq. Fla. Stat. 409.913 Fla. Stat. § 409.920 Fla. Stat. § 409.9201 Fla. Stat. § 409.9203 Fla. Stat. § 456.054 Fla. Stat. § 458.331 Fla. Stat. § 414.39	**Criminal and Civil Penalties for False Claims and Statements** Other Helpful Information About Medicaid Fraud & Reporting Fraud *https://ahca.myflorida.com/MCHQ/MPI/* *http://www.myfloridalegal.com/pages.nsf/Main/EBC480598BBF32D885256CC6005B54D1* *https://ahca.myflorida.com/Executive/Inspector_General/complaints.shtml* *https://myfloridacfo.com/fraudfreeflorida/* *https://myfloridacfo.com/docs-sf/workers-compensation-libraries/workers-comp-documents/brochures-and-guides/anti-fraudnotice.pdf?sfvrsn=c8fb3f77_4* Fla. Stat. § 68.081 *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.081.html* Sections 68.081-68.092 may be cited as the "Florida False Claims Act." **History:** S. 1, *ch. 94-316*; s. 1, *ch. 2007-236*, eff. July 1, 2007; s. 1, *ch. 2013-104*, eff. July 1, 2013. **§ 68.082. False claims against the state; definitions; liability** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.082.html*

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	(1) As used in this section, the term: (a) "Claim" means any request or demand, whether under a contract or otherwise, for money or property, regardless of whether the state has title to the money or property, that: 1. Is presented to any employee, officer, or agent of the state; or 2. Is made to a contractor, grantee, or other recipient if the state provides or has provided any portion of the money or property requested or demanded, or if the state will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded. (b) "Department" means the Department of Legal Affairs, except as specifically provided in *ss. 68.083* and *68.084*. (c) "Knowing" or "knowingly" means, with respect to information, that a person: (1) Has actual knowledge of the information; (2) Acts in deliberate ignorance of the truth or falsity of the information; or (3) Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required. Innocent mistake shall be a defense to an action under this act. (d) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. (e) "Obligation" means an established duty, fixed or otherwise, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment. (f) "State" means the government of the state or any department, division, bureau, commission, regional planning agency, board, district, authority, agency, or other instrumentality of the state. (2) Any person who: (a) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval; (b) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim; (c) Conspires to commit a violation of this subsection; (d) Has possession, custody, or control of property or money used or to be used by the state and knowingly delivers or causes to be delivered less than all of that money or property; (e) Is authorized to make or deliver a document certifying receipt of property used or to be used by the state and, intending to defraud the state, makes or delivers the receipt without knowing that the information on the receipt is true; (f) Knowingly buys or receives, as a pledge of an obligation or a debt, public property from an officer or employee of the state who may not sell or pledge the property; or (g) Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly

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	avoids or decreases an obligation to pay or transmit money or property to the state is liable to the state for a civil penalty of not less than $ 5,500 and not more than $ 11,000 and for treble the amount of damages the state sustains because of the act of that person. (3) The court may reduce the treble damages authorized under subsection (2) if the court finds one or more of the following specific extenuating circumstances: (a) The person committing the violation furnished the department with all information known to the person about the violation within 30 days after the date on which the person first obtained the information; (b) The person fully cooperated with any official investigation of the violation; or (c) At the time the person furnished the department with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this section with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; in which case the court shall award no less than 2 times the amount of damages sustained by the state because of the act of the person. The court shall set forth in a written order its findings and basis for reducing the treble damages award. **History:** S. 2, *ch. 94-316*; s. 2, *ch. 2007-236*, eff. July 1, 2007; s. 2, *ch. 2013-104*, eff. July 1, 2013. **Fla. Stat. § 409.9201 - Medicaid fraud** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0409/Sections/0409.9201.html* (1) As used in this section, the term: (a) "Prescription drug" means any drug, including, but not limited to, finished dosage forms or active ingredients that are subject to, defined in, or described in s. 503(b) of the Federal Food, Drug, and Cosmetic Act*1* or in *s. 465.003*, *s. 499.003(17)*, *s. 499.007(13)*, or *s. 499.82(10)*. (b) "Value" means the amount billed to the Medicaid program for the property dispensed or the market value of a legend drug or goods or services at the time and place of the offense. If the market value cannot be determined, the term means the replacement cost of the legend drug or goods or services within a reasonable time after the offense. (2) Any person who knowingly sells, who knowingly attempts or conspires to sell, or who knowingly causes any other person to sell or attempt or conspire to sell a legend drug that was paid for by the Medicaid program commits a felony. (a) If the value of the legend drug involved is less than $20,000, the crime is a felony of the third degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (b) If the value of the legend drug involved is $20,000 or more but less than $100,000, the crime is a felony of the second degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (c) If the value of the legend drug involved is $100,000 or more, the crime is a felony of the first degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (3) Any person who knowingly purchases, or who knowingly attempts or conspires to purchase, a legend drug that was paid for by the Medicaid program and intended for use by another person commits a felony. (a) If the value of the legend drug is less than $20,000, the crime is a felony of the third degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (b) If the value of the legend drug is $20,000 or more but less than $100,000, the crime is a felony of the second degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (c) If the value of the legend drug is $100,000 or more, the crime is a felony of the first degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (4) Any person who knowingly makes or knowingly causes to be made, or who attempts or conspires to make, any false statement or representation to any person for the purpose of obtaining goods or services from the Medicaid program commits a felony. (a) If the value of the goods or services is less than $20,000, the crime is a felony of the third degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (b) If the value of the goods or services is $20,000 or more but less than $100,000, the crime is a felony of the second degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. (c) If the value of the goods or services involved is $100,000 or more, the crime is a felony of the first degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. The value of individual items of the legend drugs or goods or services involved in distinct transactions committed during a single scheme or course of conduct, whether involving a single person or several persons, may be aggregated when determining the punishment for the offense. Credits **Added by** ***Laws 2004, c. 2004-344, § 9, eff. July 1, 2004***. **Amended by** ***Laws 2008, c. 2008-207, § 38, eff. July 1, 2008***; ***Laws 2010, c. 2010-161, § 37, eff. July 1, 2010***; ***Laws 2014, c. 2014-89, § 32, eff. Oct. 1, 2014***; ***Laws 2016, c. 2016-145, § 12, eff. July 1, 2016***; ***Laws 2016, c. 2016-212, § 18, eff. July 1, 2016***; ***Laws 2017, c. 2017-3, § 26, eff. July 7, 2017***; ***Laws 2022, c. 2022-35, § 13, eff. July 1, 2022***.

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	Fla. Stat. § 409.913 - Oversight of the integrity of the Medicaid program *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0409/Sections/0409.913.html* The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate. Each January 15, the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs shall submit a report to the Legislature documenting the effectiveness of the state's efforts to control Medicaid fraud and abuse and to recover Medicaid overpayments during the previous fiscal year. The report must describe the number of cases opened and investigated each year; the sources of the cases opened; the disposition of the cases closed each year; the amount of overpayments alleged in preliminary and final audit letters; the number and amount of fines or penalties imposed; any reductions in overpayment amounts negotiated in settlement agreements or by other means; the amount of final agency determinations of overpayments; the amount deducted from federal claiming as a result of overpayments; the amount of overpayments recovered each year; the amount of cost of investigation recovered each year; the average length of time to collect from the time the case was opened until the overpayment is paid in full; the amount determined as uncollectible and the portion of the uncollectible amount subsequently reclaimed from the Federal Government; the number of providers, by type, that are terminated from participation in the Medicaid program as a result of fraud and abuse; and all costs associated with discovering and prosecuting cases of Medicaid overpayments and making recoveries in such cases. The report must also document actions taken to prevent overpayments and the number of providers prevented from enrolling in or reenrolling in the Medicaid program as a result of documented Medicaid fraud and abuse and must include policy recommendations necessary to prevent or recover overpayments and changes necessary to prevent and detect Medicaid fraud. All policy recommendations in the report must include a detailed fiscal analysis, including, but not limited to, implementation costs, estimated savings to the Medicaid program, and the return on investment. The agency must submit the policy recommendations and fiscal analyses in the report to the appropriate estimating conference, pursuant to *s. 216.137*, by February 15 of each year. The agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs each must include detailed unit-specific performance standards, benchmarks, and metrics in the report, including projected cost savings to the state Medicaid program during the following fiscal year. (1) For the purposes of this section, the term: (a) "Abuse" means: 1. Provider practices that are inconsistent with generally accepted business or medical practices and that result in an unnecessary cost to the Medicaid program or in reimbursement for goods or services that are not medically necessary or that fail to meet professionally recognized standards for health care. 2. Recipient practices that result in unnecessary cost to the Medicaid program. (b) "Complaint" means an allegation that fraud, abuse, or an overpayment has occurred. (c) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception results in unauthorized benefit to herself or himself or another person. The term includes any act that constitutes fraud under applicable federal or state law. (d) "Medical necessity" or "medically necessary" means any goods or services necessary to palliate the effects of a terminal condition, or to prevent, diagnose, correct, cure, alleviate, or preclude deterioration of a condition that threatens life, causes pain or suffering, or results in illness or infirmity, which goods or services are provided in accordance with generally accepted standards of medical practice. For purposes of determining Medicaid reimbursement, the agency is the final arbiter of medical necessity. Determinations of medical necessity must be made by a licensed physician employed by or under contract with the agency, except for behavior analysis services, which may be determined by either a licensed physician or a doctoral-level board-certified behavior analyst. Determinations must be based upon information available at the time the goods or services are requested. (e) "Overpayment" includes any amount that is not authorized to be paid by the Medicaid program whether paid as a result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake. (f) "Person" means any natural person, corporation, partnership, association, clinic, group, or other entity, whether or not such person is enrolled in the Medicaid program or is a provider of health care. (2) The agency shall conduct, or cause to be conducted by contract or otherwise, reviews, investigations, analyses, audits, or any combination thereof, to determine possible fraud, abuse, overpayment, or recipient neglect in the Medicaid program and shall report the findings of any overpayments in audit reports as appropriate. At least 5 percent of all audits shall be conducted on a random basis. As part of its ongoing fraud detection activities, the agency shall identify and monitor, by contract or otherwise, patterns of overutilization of Medicaid services based on state averages. The agency shall track Medicaid provider prescription and billing patterns and evaluate them against Medicaid medical necessity criteria and coverage and limitation guidelines adopted by rule. Medical necessity determination requires that service be consistent with symptoms or confirmed diagnosis of illness or injury under treatment and not in excess of the patient's needs. The agency shall conduct reviews of provider exceptions to peer group norms and shall, using statistical methodologies, provider profiling, and analysis of billing patterns, detect and investigate abnormal or unusual increases in billing or payment of claims for Medicaid services and medically unnecessary provision of services. (3) The agency may conduct, or may contract for, prepayment review of provider claims to ensure cost-effective purchasing; to ensure that billing by a provider to the agency is in accordance with applicable provisions of all Medicaid rules, regulations, handbooks, and policies and in accordance with federal, state, and local law; and to ensure that appropriate care is rendered to Medicaid recipients. Such prepayment reviews may be conducted as determined appropriate by the agency, without any suspicion or allegation of fraud, abuse, or neglect, and may last for up to 1 year. Unless the agency has reliable evidence of fraud, misrepresentation, abuse, or neglect, claims shall be adjudicated for denial or payment within 90 days after receipt of complete documentation by the agency for review. If there is reliable evidence of fraud, misrepresentation, abuse, or neglect, claims shall be adjudicated for denial of payment within 180 days after receipt of complete documentation by the agency for review. (4) Any suspected criminal violation identified by the agency must be referred to the Medicaid Fraud Control Unit of the Office of the Attorney General for investigation. The agency and the Attorney General shall enter into a memorandum of understanding, which must include, but need not be limited to, a protocol for regularly sharing information and coordinating casework. The protocol must establish a procedure for the referral by

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	the agency of cases involving suspected Medicaid fraud to the Medicaid Fraud Control Unit for investigation, and the return to the agency of those cases where investigation determines that administrative action by the agency is appropriate. Offices of the Medicaid program integrity program and the Medicaid Fraud Control Unit of the Department of Legal Affairs, shall, to the extent possible, be collocated. The agency and the Department of Legal Affairs shall periodically conduct joint training and other joint activities designed to increase communication and coordination in recovering overpayments. (5) A Medicaid provider is subject to having goods and services that are paid for by the Medicaid program reviewed by an appropriate peer-review organization designated by the agency. The written findings of the applicable peer-review organization are admissible in any court or administrative proceeding as evidence of medical necessity or the lack thereof. (6) Any notice required to be given to a provider under this section is presumed to be sufficient notice if sent to the address last shown on the provider enrollment file. It is the responsibility of the provider to furnish and keep the agency informed of the provider's current address. United States Postal Service proof of mailing or certified or registered mailing of such notice to the provider at the address shown on the provider enrollment file constitutes sufficient proof of notice. Any notice required to be given to the agency by this section must be sent to the agency at an address designated by rule. (7) When presenting a claim for payment under the Medicaid program, a provider has an affirmative duty to supervise the provision of, and be responsible for, goods and services claimed to have been provided, to supervise and be responsible for preparation and submission of the claim, and to present a claim that is true and accurate and that is for goods and services that: (a) Have actually been furnished to the recipient by the provider prior to submitting the claim. (b) Are Medicaid-covered goods or services that are medically necessary. (c) Are of a quality comparable to those furnished to the general public by the provider's peers. (d) Have not been billed in whole or in part to a recipient or a recipient's responsible party, except for such copayments, coinsurance, or deductibles as are authorized by the agency. (e) Are provided in accord with applicable provisions of all Medicaid rules, regulations, handbooks, and policies and in accordance with federal, state, and local law. (f) Are documented by records made at the time the goods or services were provided, demonstrating the medical necessity for the goods or services rendered. Medicaid goods or services are excessive or not medically necessary unless both the medical basis and the specific need for them are fully and properly documented in the recipient's medical record. The agency shall deny payment or require repayment for goods or services that are not presented as required in this subsection. (8) The agency shall not reimburse any person or entity for any prescription for medications, medical supplies, or medical services if the prescription was written by a physician or other prescribing practitioner who is not enrolled in the Medicaid program. This section does not apply: (a) In instances involving bona fide emergency medical conditions as determined by the agency; (b) To a provider of medical services to a patient in a hospital emergency department, hospital inpatient or outpatient setting, or nursing home; (c) To bona fide pro bono services by preapproved non-Medicaid providers as determined by the agency; (d) To prescribing physicians who are board-certified specialists treating Medicaid recipients referred for treatment by a treating physician who is enrolled in the Medicaid program; (e) To prescriptions written for dually eligible Medicare beneficiaries by an authorized Medicare provider who is not enrolled in the Medicaid program; or (f) To other physicians who are not enrolled in the Medicaid program but who provide a medically necessary service or prescription not otherwise reasonably available from a Medicaid-enrolled physician. (9) A Medicaid provider shall retain medical, professional, financial, and business records pertaining to services and goods furnished to a Medicaid recipient and billed to Medicaid for a period of 5 years after the date of furnishing such services or goods. The agency may investigate, review, or analyze such records, which must be made available during normal business hours. However, 24-hour notice must be provided if patient treatment would be disrupted. The provider must keep the agency informed of the location of the provider's Medicaid-related records. The authority of the agency to obtain Medicaid-related records from a provider is neither curtailed nor limited during a period of litigation between the agency and the provider. (10) Payments for the services of billing agents or persons participating in the preparation of a Medicaid claim shall not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program. (11) The agency shall deny payment or require repayment for inappropriate, medically unnecessary, or excessive goods or services from the person furnishing them, the person under whose supervision they were furnished, or the person causing them to be furnished. (12) The complaint and all information obtained pursuant to an investigation of a Medicaid provider, or the authorized representative or agent of a provider, relating to an allegation of fraud, abuse, or neglect are confidential and exempt from the provisions of *s. 119.07(1)*: (a) Until the agency takes final agency action with respect to the provider and requires repayment of any overpayment, or imposes an administrative sanction; (b) Until the Attorney General refers the case for criminal prosecution; (c) Until 10 days after the complaint is determined without merit; or (d) At all times if the complaint or information is otherwise protected by law. (13) The agency shall terminate participation of a Medicaid provider in the Medicaid program and may seek civil remedies or impose other administrative sanctions against a Medicaid provider, if the provider or any principal, officer, director, agent, managing employee, or affiliated person of the provider, or any partner or shareholder having an ownership interest in the provider equal to 5 percent or greater, has been convicted of a criminal offense under federal law or the law of any state relating to the practice of the provider's profession, or a criminal offense listed under *s. 408.809(4)*, *s. 409.907(10)*, or *s. 435.04(2)*. If the agency determines that the provider did not participate or acquiesce in the offense, termination will not be imposed. If the agency effects a termination under this subsection, the agency shall take final agency action.

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	(14) If the provider has been suspended or terminated from participation in the Medicaid program or the Medicare program by the Federal Government or any state, the agency must immediately suspend or terminate, as appropriate, the provider's participation in this state's Medicaid program for a period no less than that imposed by the Federal Government or any other state, and may not enroll such provider in this state's Medicaid program while such foreign suspension or termination remains in effect. The agency shall also immediately suspend or terminate, as appropriate, a provider's participation in this state's Medicaid program if the provider participated or acquiesced in any action for which any principal, officer, director, agent, managing employee, or affiliated person of the provider, or any partner or shareholder having an ownership interest in the provider equal to 5 percent or greater, was suspended or terminated from participating in the Medicaid program or the Medicare program by the Federal Government or any state. This sanction is in addition to all other remedies provided by law. (15) The agency shall seek a remedy provided by law, including, but not limited to, any remedy provided in subsections (13) and (16) and *s. 812.035*, if: (a) The provider's license has not been renewed, or has been revoked, suspended, or terminated, for cause, by the licensing agency of any state; (b) The provider has failed to make available or has refused access to Medicaid-related records to an auditor, investigator, or other authorized employee or agent of the agency, the Attorney General, a state attorney, or the Federal Government; (c) The provider has not furnished or has failed to make available such Medicaid-related records as the agency has found necessary to determine whether Medicaid payments are or were due and the amounts thereof; (d) The provider has failed to maintain medical records made at the time of service, or prior to service if prior authorization is required, demonstrating the necessity and appropriateness of the goods or services rendered; (e) The provider is not in compliance with provisions of Medicaid provider publications that have been adopted by reference as rules in the Florida Administrative Code; with provisions of state or federal laws, rules, or regulations; with provisions of the provider agreement between the agency and the provider; or with certifications found on claim forms or on transmittal forms for electronically submitted claims that are submitted by the provider or authorized representative, as such provisions apply to the Medicaid program; (f) The provider or person who ordered, authorized, or prescribed the care, services, or supplies has furnished, or ordered or authorized the furnishing of, goods or services to a recipient which are inappropriate, unnecessary, excessive, or harmful to the recipient or are of inferior quality; (g) The provider has demonstrated a pattern of failure to provide goods or services that are medically necessary; (h) The provider or an authorized representative of the provider, or a person who ordered, authorized, or prescribed the goods or services, has submitted or caused to be submitted false or a pattern of erroneous Medicaid claims; (i) The provider or an authorized representative of the provider, or a person who has ordered, authorized, or prescribed the goods or services, has submitted or caused to be submitted a Medicaid provider enrollment application, a request for prior authorization for Medicaid services, a drug exception request, or a Medicaid cost report that contains materially false or incorrect information; (j) The provider or an authorized representative of the provider has collected from or billed a recipient or a recipient's responsible party improperly for amounts that should not have been so collected or billed by reason of the provider's billing the Medicaid program for the same service; (k) The provider or an authorized representative of the provider has included in a cost report costs that are not allowable under a Florida Title XIX reimbursement plan after the provider or authorized representative had been advised in an audit exit conference or audit report that the costs were not allowable; (*l*) The provider is charged by information or indictment with fraudulent billing practices or an offense referenced in subsection (13). The sanction applied for this reason is limited to suspension of the provider's participation in the Medicaid program for the duration of the indictment unless the provider is found guilty pursuant to the information or indictment; (m) The provider or a person who ordered, authorized, or prescribed the goods or services is found liable for negligent practice resulting in death or injury to the provider's patient; (n) The provider fails to demonstrate that it had available during a specific audit or review period sufficient quantities of goods, or sufficient time in the case of services, to support the provider's billings to the Medicaid program; (*o*) The provider has failed to comply with the notice and reporting requirements of *s. 409.907*; (p) The agency has received reliable information of patient abuse or neglect or of any act prohibited by *s. 409.920*; or (q) The provider has failed to comply with an agreed-upon repayment schedule. A provider is subject to sanctions for violations of this subsection as the result of actions or inactions of the provider, or actions or inactions of any principal, officer, director, agent, managing employee, or affiliated person of the provider, or any partner or shareholder having an ownership interest in the provider equal to 5 percent or greater, in which the provider participated or acquiesced. (16) The agency shall impose any of the following sanctions or disincentives on a provider or a person for any of the acts described in subsection (15): (a) Suspension for a specific period of time of not more than 1 year. Suspension precludes participation in the Medicaid program, which includes any action that results in a claim for payment to the Medicaid program for furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services. (b) Termination for a specific period of time ranging from more than 1 year to 20 years. Termination precludes participation in the Medicaid program, which includes any action that results in a claim for payment to the Medicaid program for furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services. (c) Imposition of a fine of up to $5,000 for each violation. Each day that an ongoing violation continues, such as refusing to furnish Medicaid-related records or refusing access to records, is considered a separate violation. Each instance of improper billing of a Medicaid recipient; each instance of including an unallowable cost on a hospital or nursing home Medicaid cost report after the provider or authorized representative has been advised in an audit exit conference or previous audit report of the cost unallowability; each instance of furnishing a Medicaid recipient goods or professional services that are inappropriate or of inferior quality as

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	determined by competent peer judgment; each instance of knowingly submitting a materially false or erroneous Medicaid provider enrollment application, request for prior authorization for Medicaid services, drug exception request, or cost report; each instance of inappropriate prescribing of drugs for a Medicaid recipient as determined by competent peer judgment; and each false or erroneous Medicaid claim leading to an overpayment to a provider is considered a separate violation. (d) Immediate suspension, if the agency has received information of patient abuse or neglect or of any act prohibited by *s. 409.920*. Upon suspension, the agency must issue an immediate final order under *s. 120.569(2)(n)*. (e) A fine, not to exceed $10,000, for a violation of paragraph (15)(i). (f) Imposition of liens against provider assets, including, but not limited to, financial assets and real property, not to exceed the amount of fines or recoveries sought, upon entry of an order determining that such moneys are due or recoverable. (g) Prepayment reviews of claims for a specified period of time. (h) Comprehensive followup reviews of providers every 6 months to ensure that they are billing Medicaid correctly. (i) Corrective action plans that remain in effect for up to 3 years and that are monitored by the agency every 6 months while in effect. (j) Other remedies as permitted by law to effect the recovery of a fine or overpayment. If a provider voluntarily relinquishes its Medicaid provider number or an associated license, or allows the associated licensure to expire after receiving written notice that the agency is conducting, or has conducted, an audit, survey, inspection, or investigation and that a sanction of suspension or termination will or would be imposed for noncompliance discovered as a result of the audit, survey, inspection, or investigation, the agency shall impose the sanction of termination for cause against the provider. The agency's termination with cause is subject to hearing rights as may be provided under chapter 120. The Secretary of Health Care Administration may make a determination that imposition of a sanction or disincentive is not in the best interest of the Medicaid program, in which case a sanction or disincentive may not be imposed. (17) In determining the appropriate administrative sanction to be applied, or the duration of any suspension or termination, the agency shall consider: (a) The seriousness and extent of the violation or violations. (b) Any prior history of violations by the provider relating to the delivery of health care programs which resulted in either a criminal conviction or in administrative sanction or penalty. (c) Evidence of continued violation within the provider's management control of Medicaid statutes, rules, regulations, or policies after written notification to the provider of improper practice or instance of violation. (d) The effect, if any, on the quality of medical care provided to Medicaid recipients as a result of the acts of the provider. (e) Any action by a licensing agency respecting the provider in any state in which the provider operates or has operated. (f) The apparent impact on access by recipients to Medicaid services if the provider is suspended or terminated, in the best judgment of the agency. The agency shall document the basis for all sanctioning actions and recommendations. (18) The agency may take action to sanction, suspend, or terminate a particular provider working for a group provider, and may suspend or terminate Medicaid participation at a specific location, rather than or in addition to taking action against an entire group. (19) The agency shall establish a process for conducting followup reviews of a sampling of providers who have a history of overpayment under the Medicaid program. This process must consider the magnitude of previous fraud or abuse and the potential effect of continued fraud or abuse on Medicaid costs. (20) In making a determination of overpayment to a provider, the agency must use accepted and valid auditing, accounting, analytical, statistical, or peer-review methods, or combinations thereof. Appropriate statistical methods may include, but are not limited to, sampling and extension to the population, parametric and nonparametric statistics, tests of hypotheses, and other generally accepted statistical methods. Appropriate analytical methods may include, but are not limited to, reviews to determine variances between the quantities of products that a provider had on hand and available to be purveyed to Medicaid recipients during the review period and the quantities of the same products paid for by the Medicaid program for the same period, taking into appropriate consideration sales of the same products to non-Medicaid customers during the same period. In meeting its burden of proof in any administrative or court proceeding, the agency may introduce the results of such statistical methods as evidence of overpayment. (21) When making a determination that an overpayment has occurred, the agency shall prepare and issue an audit report to the provider showing the calculation of overpayments. The agency's determination must be based solely upon information available to it before issuance of the audit report and, in the case of documentation obtained to substantiate claims for Medicaid reimbursement, based solely upon contemporaneous records. The agency may consider addenda or modifications to a note that was made contemporaneously with the patient care episode if the addenda or modifications are germane to the note. (22) The audit report, supported by agency work papers, showing an overpayment to a provider constitutes evidence of the overpayment. A provider may not present or elicit testimony on direct examination or cross-examination in any court or administrative proceeding, regarding the purchase or acquisition by any means of drugs, goods, or supplies; sales or divestment by any means of drugs, goods, or supplies; or inventory of drugs, goods, or supplies, unless such acquisition, sales, divestment, or inventory is documented by written invoices, written inventory records, or other competent written documentary evidence maintained in the normal course of the provider's business. A provider may not present records to contest an overpayment or sanction unless such records are contemporaneous and, if requested during the audit process, were furnished to the agency or its agent upon request. This limitation does not apply to Medicaid cost report audits. This limitation does not preclude consideration by the agency of addenda or modifications to a note if the addenda or modifications are made before notification of the audit, the addenda or modifications are germane to the note, and the note was made contemporaneously with a patient care episode. Notwithstanding the applicable rules of discovery, all documentation to be offered as evidence at an administrative hearing on a Medicaid overpayment or an administrative sanction must be exchanged by all parties at least 14 days before the administrative hearing or be excluded from consideration.

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	(23)(a) In an audit, investigation, or enforcement action for a violation committed by a provider which is conducted or taken pursuant to this section, the agency or contractor is entitled to recover any and all investigative and legal costs incurred as a result of such audit, investigation, or enforcement action. Such costs may include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by an attorney and other personnel working on the case, and any other expenses incurred by the agency or contractor that are associated with the case, including any expert witness costs and attorney fees incurred on behalf of the agency or contractor if the agency's findings were not contested by the provider or, if contested, the agency ultimately prevailed. (b) The agency has the burden of documenting the costs, which include salaries and employee benefits and out-of-pocket expenses. The amount of costs that may be recovered must be reasonable in relation to the seriousness of the violation and must be set taking into consideration the financial resources, earning ability, and needs of the provider, who has the burden of demonstrating such factors. (c) The provider may pay the costs over a period to be determined by the agency if the agency determines that an extreme hardship would result to the provider from immediate full payment. Any default in payment of costs may be collected by any means authorized by law. (24) If the agency imposes an administrative sanction pursuant to subsection (13), subsection (14), or subsection (15), except paragraphs (15)(e) and (*o*), upon any provider or any principal, officer, director, agent, managing employee, or affiliated person of the provider who is regulated by another state entity, the agency shall notify that other entity of the imposition of the sanction within 5 business days. Such notification must include the provider's or person's name and license number and the specific reasons for sanction. (25)(a) The agency shall withhold Medicaid payments, in whole or in part, to a provider upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud, willful misrepresentation, or abuse under the Medicaid program, or a crime committed while rendering goods or services to Medicaid recipients. If it is determined that fraud, willful misrepresentation, abuse, or a crime did not occur, the payments withheld must be paid to the provider within 14 days after such determination. Amounts not paid within 14 days accrue interest at the rate of 10 percent per year, beginning after the 14th day. (b) The agency shall deny payment, or require repayment, if the goods or services were furnished, supervised, or caused to be furnished by a person who has been suspended or terminated from the Medicaid program or Medicare program by the Federal Government or any state. (c) Overpayments owed to the agency bear interest at the rate of 10 percent per year from the date of final determination of the overpayment by the agency, and payment arrangements must be made within 30 days after the date of the final order, which is not subject to further appeal. (d) The agency, upon entry of a final agency order, a judgment or order of a court of competent jurisdiction, or a stipulation or settlement, may collect the moneys owed by all means allowable by law, including, but not limited to, notifying any fiscal intermediary of Medicare benefits that the state has a superior right of payment. Upon receipt of such written notification, the Medicare fiscal intermediary shall remit to the state the sum claimed. (e) The agency may institute amnesty programs to allow Medicaid providers the opportunity to voluntarily repay overpayments. The agency may adopt rules to administer such programs. (26) The agency may impose administrative sanctions against a Medicaid recipient, or the agency may seek any other remedy provided by law, including, but not limited to, the remedies provided in *s. 812.035*, if the agency finds that a recipient has engaged in solicitation in violation of *s. 409.920* or that the recipient has otherwise abused the Medicaid program. (27) When the Agency for Health Care Administration has made a probable cause determination and alleged that an overpayment to a Medicaid provider has occurred, the agency, after notice to the provider, shall: (a) Withhold, and continue to withhold during the pendency of an administrative hearing pursuant to chapter 120, any medical assistance reimbursement payments until such time as the overpayment is recovered, unless within 30 days after receiving notice thereof the provider: 1. Makes repayment in full; or 2. Establishes a repayment plan that is satisfactory to the Agency for Health Care Administration. (b) Withhold, and continue to withhold during the pendency of an administrative hearing pursuant to chapter 120, medical assistance reimbursement payments if the terms of a repayment plan are not adhered to by the provider. (28) Venue for all Medicaid program integrity cases lies in Leon County, at the discretion of the agency. (29) Notwithstanding other provisions of law, the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs may review a provider's Medicaid-related and non-Medicaid-related records in order to determine the total output of a provider's practice to reconcile quantities of goods or services billed to Medicaid with quantities of goods or services used in the provider's total practice. (30) The agency shall terminate a provider's participation in the Medicaid program if the provider fails to reimburse an overpayment or pay an agency-imposed fine that has been determined by final order, not subject to further appeal, within 30 days after the date of the final order, unless the provider and the agency have entered into a repayment agreement. (31) If a provider requests an administrative hearing pursuant to chapter 120, such hearing must be conducted within 90 days following assignment of an administrative law judge, absent exceptionally good cause shown as determined by the administrative law judge or hearing officer. Upon issuance of a final order, the outstanding balance of the amount determined to constitute the overpayment and fines is due. If a provider fails to make payments in full, fails to enter into a satisfactory repayment plan, or fails to comply with the terms of a repayment plan or settlement agreement, the agency shall withhold reimbursement payments for Medicaid services until the amount due is paid in full. (32) Duly authorized agents and employees of the agency shall have the power to inspect, during normal business hours, the records of any pharmacy, wholesale establishment, or manufacturer, or any other place in which drugs and medical supplies are manufactured, packed, packaged, made, stored, sold, or kept for sale, for the purpose of verifying the amount of drugs and medical supplies ordered, delivered, or purchased by a provider. The agency shall provide at least 2 business days' prior notice of any such inspection. The notice must identify the provider whose records will be inspected, and the inspection shall include only records specifically related to that provider.

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	(33) In accordance with federal law, Medicaid recipients convicted of a crime pursuant to *42 U.S.C. s. 1320a-7b* may be limited, restricted, or suspended from Medicaid eligibility for a period not to exceed 1 year, as determined by the agency head or designee. (34) To deter fraud and abuse in the Medicaid program, the agency may limit the number of Schedule II and Schedule III refill prescription claims submitted from a pharmacy provider. The agency shall limit the allowable amount of reimbursement of prescription refill claims for Schedule II and Schedule III pharmaceuticals if the agency or the Medicaid Fraud Control Unit determines that the specific prescription refill was not requested by the Medicaid recipient or authorized representative for whom the refill claim is submitted or was not prescribed by the recipient's medical provider or physician. Any such refill request must be consistent with the original prescription. (35) The Office of Program Policy Analysis and Government Accountability shall provide a report to the President of the Senate and the Speaker of the House of Representatives on a biennial basis, beginning January 31, 2006, on the agency's efforts to prevent, detect, and deter, as well as recover funds lost to, fraud and abuse in the Medicaid program. (36) The agency may provide to a sample of Medicaid recipients or their representatives through the distribution of explanations of benefits information about services reimbursed by the Medicaid program for goods and services to such recipients, including information on how to report inappropriate or incorrect billing to the agency or other law enforcement entities for review or investigation, information on how to report criminal Medicaid fraud to the Medicaid Fraud Control Unit's toll-free hotline number, and information about the rewards available under *s. 409.9203*. The explanation of benefits may not be mailed for Medicaid independent laboratory services as described in *s. 409.905(7)* or for Medicaid certified match services as described in *ss. 409.9071* and *1011.70*. (37) The agency shall post on its website a current list of each Medicaid provider, including any principal, officer, director, agent, managing employee, or affiliated person of the provider, or any partner or shareholder having an ownership interest in the provider equal to 5 percent or greater, who has been terminated for cause from the Medicaid program or sanctioned under this section. The list must be searchable by a variety of search parameters and provide for the creation of formatted lists that may be printed or imported into other applications, including spreadsheets. The agency shall update the list at least monthly. (38) In order to improve the detection of health care fraud, use technology to prevent and detect fraud, and maximize the electronic exchange of health care fraud information, the agency shall: (a) Compile, maintain, and publish on its website a detailed list of all state and federal databases that contain health care fraud information and update the list at least biannually; (b) Develop a strategic plan to connect all databases that contain health care fraud information to facilitate the electronic exchange of health information between the agency, the Department of Health, the Department of Law Enforcement, and the Attorney General's Office. The plan must include recommended standard data formats, fraud identification strategies, and specifications for the technical interface between state and federal health care fraud databases; (c) Monitor innovations in health information technology, specifically as it pertains to Medicaid fraud prevention and detection; and (d) Periodically publish policy briefs that highlight available new technology to prevent or detect health care fraud and projects implemented by other states, the private sector, or the Federal Government which use technology to prevent or detect health care fraud. **Credits** Added by *Laws 1991, c. 91-282, § 44*; *Laws 1994, c. 94-251, § 5*; *Laws 1996, c. 96-331, § 4*; *Laws 1996, c. 96-387, § 4*; *Laws 1996, c. 96-406, § 260*; *Laws 1996, c. 96-410, § 195*; *Laws 1997, c. 97-103, § 1025*. Amended by *Laws 1999, c. 99-397, § 70, eff. July 1, 1999*; *Laws 2000, c. 2000-153, § 61, eff. July 4, 2000*; *Laws 2001, c. 2001-377, § 12, eff. Dec. 17, 2001*; *Laws 2002, c. 2002-400, § 30, eff. June 7, 2002*; *Laws 2004, c. 2004-344, § 6, eff. July 1, 2004*; *Laws 2005, c. 2005-133, § 7, eff. July 1, 2005*; *Laws 2006, c. 2006-2, § 13, eff. July 4, 2006*; *Laws 2008, c. 2008-143, § 14, eff. July 1, 2008*; *Laws 2009, c. 2009-223, § 18, eff. July 1, 2009*; *Laws 2013, c. 2013-150, § 3, eff. July 1, 2013*; *Laws 2014, c. 2014-19, § 210, eff. July 1, 2014*; *Laws 2017, c. 2017-129, § 14, eff. July 1, 2017*; *Laws 2018, c. 2018-110, § 55, eff. May 10, 2018*; *Laws 2020, c. 2020-156, § 42, eff. July 1, 2020*; *Laws 2021, c. 2021-151, § 6, eff. July 1, 2021*. **Fla. Stat. § 409.920 - Medicaid provider fraud** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0409/Sections/0409.920.html* (1) For the purposes of this section, the term: (a) "Agency" means the Agency for Health Care Administration. (b) "Fiscal agent" means any individual, firm, corporation, partnership, organization, or other legal entity that has contracted with the agency to receive, process, and adjudicate claims under the Medicaid program. (c) "Item or service" includes: 1. Any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for payment; or 2. In the case of a claim based on costs, any entry in the cost report, books of account, or other documents supporting such claim. (d) "Knowingly" means that the act was done voluntarily and intentionally and not because of mistake or accident. As used in this section, the term "knowingly" also includes the word "willfully" or "willful" which, as used in this section, means that an act was committed voluntarily and purposely, with the specific intent to do something that the law forbids, and that the act was committed with bad purpose, either to disobey or disregard the law. (e) "Managed care plans" means a health insurer authorized under chapter 624, an exclusive provider organization authorized under chapter 627, a health maintenance organization authorized under chapter 641, the Children's Medical Services Network authorized under chapter 391, a prepaid health plan authorized under this chapter, a provider service network

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	authorized under this chapter, a minority physician network authorized under this chapter, and an emergency department diversion program authorized under this chapter or the General Appropriations Act, providing health care services pursuant to a contract with the Medicaid program. (2)(a) A person may not: 1. Knowingly make, cause to be made, or aid and abet in the making of any false statement or false representation of a material fact, by commission or omission, in any claim submitted to the agency or its fiscal agent or a managed care plan for payment. 2. Knowingly make, cause to be made, or aid and abet in the making of a claim for items or services that are not authorized to be reimbursed by the Medicaid program. 3. Knowingly charge, solicit, accept, or receive anything of value, other than an authorized copayment from a Medicaid recipient, from any source in addition to the amount legally payable for an item or service provided to a Medicaid recipient under the Medicaid program or knowingly fail to credit the agency or its fiscal agent for any payment received from a third-party source. 4. Knowingly make or in any way cause to be made any false statement or false representation of a material fact, by commission or omission, in any document containing items of income and expense that is or may be used by the agency to determine a general or specific rate of payment for an item or service provided by a provider. 5. Knowingly solicit, offer, pay, or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under the Medicaid program, or in return for obtaining, purchasing, leasing, ordering, or arranging for or recommending, obtaining, purchasing, leasing, or ordering any goods, facility, item, or service, for which payment may be made, in whole or in part, under the Medicaid program. This subparagraph does not apply to any discount, payment, waiver of payment, or payment practice not prohibited by *42 U.S.C. s. 1320a-7b(b)* or any regulations adopted thereunder. 6. Knowingly submit false or misleading information or statements to the Medicaid program for the purpose of being accepted as a Medicaid provider. 7. Knowingly use or endeavor to use a Medicaid provider's identification number or a Medicaid recipient's identification number to make, cause to be made, or aid and abet in the making of a claim for items or services that are not authorized to be reimbursed by the Medicaid program. (b) 1. A person who violates this subsection and receives or endeavors to receive anything of value of: a. Ten thousand dollars or less commits a felony of the third degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. b. More than $10,000, but less than $50,000, commits a felony of the second degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. c. Fifty thousand dollars or more commits a felony of the first degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. 2. The value of separate funds, goods, or services that a person received or attempted to receive pursuant to a scheme or course of conduct may be aggregated in determining the degree of the offense. 3. In addition to the sentence authorized by law, a person who is convicted of a violation of this subsection shall pay a fine in an amount equal to five times the pecuniary gain unlawfully received or the loss incurred by the Medicaid program or managed care organization, whichever is greater. (3) The repayment of Medicaid payments wrongfully obtained, or the offer or endeavor to repay Medicaid funds wrongfully obtained, does not constitute a defense to, or a ground for dismissal of, criminal charges brought under this section. (4) Property “paid for” includes all property furnished to or intended to be furnished to any recipient of benefits under the Medicaid program, regardless of whether reimbursement is ever actually made by the program. (5) All records in the custody of the agency or its fiscal agent which relate to Medicaid provider fraud are business records within the meaning of *s. 90.803(6)*. (6) Proof that a claim was submitted to the agency or its fiscal agent which contained a false statement or a false representation of a material fact, by commission or omission, unless satisfactorily explained, gives rise to an inference that the person whose signature appears as the provider's authorizing signature on the claim form, or whose signature appears on an agency electronic claim submission agreement submitted for claims made to the fiscal agent by electronic means, had knowledge of the false statement or false representation. This subsection applies whether the signature appears on the claim form or the electronic claim submission agreement by means of handwriting, typewriting, facsimile signature stamp, computer impulse, initials, or otherwise. (7) Proof of submission to the agency or its fiscal agent of a document containing items of income and expense, which document is used or that may be used by the agency or its fiscal agent to determine a general or specific rate of payment and which document contains a false statement or a false representation of a material fact, by commission or omission, unless satisfactorily explained, gives rise to the inference that the person who signed the certification of the document had knowledge of the false statement or representation. This subsection applies whether the signature appears on the document by means of handwriting, typewriting, facsimile signature stamp, electronic transmission, initials, or otherwise. (8) A person who provides the state, any state agency, any of the state's political subdivisions, or any agency of the state's political subdivisions with information about fraud or suspected fraudulent acts by a Medicaid provider, including a managed care organization, is immune from civil liability for libel, slander, or any other relevant tort for providing information about fraud or suspected fraudulent acts unless the person acted with knowledge that the information was false or with reckless disregard for the truth or falsity of the information. Such immunity extends to reports of fraudulent acts or suspected fraudulent acts conveyed to or from the agency in any manner, including any forum and with any audience as directed by the agency, and includes all discussions subsequent to the report and subsequent inquiries from the agency, unless the person acted with knowledge that the information was false or with reckless disregard

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	for the truth or falsity of the information. For purposes of this subsection, the term "fraudulent acts" includes actual or suspected fraud and abuse, insurance fraud, licensure fraud, or public assistance fraud, including any fraud-related matters that a provider or health plan is required to report to the agency or a law enforcement agency. (9) The Attorney General shall conduct a statewide program of Medicaid fraud control. To accomplish this purpose, the Attorney General shall: (a) Investigate the possible criminal violation of any applicable state law pertaining to fraud in the administration of the Medicaid program, in the provision of medical assistance, or in the activities of providers of health care under the Medicaid program. (b) Investigate the alleged abuse or neglect of patients in health care facilities receiving payments under the Medicaid program, in coordination with the agency. (c) Investigate the alleged misappropriation of patients' private funds in health care facilities receiving payments under the Medicaid program. (d) Refer to the Office of Statewide Prosecution or the appropriate state attorney all violations indicating a substantial potential for criminal prosecution. (e) Refer to the agency all suspected abusive activities not of a criminal or fraudulent nature. (f) Safeguard the privacy rights of all individuals and provide safeguards to prevent the use of patient medical records for any reason beyond the scope of a specific investigation for fraud or abuse, or both, without the patient's written consent. (g) Publicize to state employees and the public the ability of persons to bring suit under the provisions of the Florida False Claims Act and the potential for the persons bringing a civil action under the Florida False Claims Act to obtain a monetary award. (10) In carrying out the duties and responsibilities under this section, the Attorney General may: (a) Enter upon the premises of any health care provider, excluding a physician, participating in the Medicaid program to examine all accounts and records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program, to investigate alleged abuse or neglect of patients, or to investigate alleged misappropriation of patients' private funds. A participating physician is required to make available any accounts or records that may, in any manner, be relevant in determining the existence of fraud in the Medicaid program, alleged abuse or neglect of patients, or alleged misappropriation of patients' private funds. The accounts or records of a non-Medicaid patient may not be reviewed by, or turned over to, the Attorney General without the patient's written consent. (b) Subpoena witnesses or materials, including medical records relating to Medicaid recipients, within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings. (c) Request and receive the assistance of any state attorney or law enforcement agency in the investigation and prosecution of any violation of this section. (d) Seek any civil remedy provided by law, including, but not limited to, the remedies provided in *ss. 68.081-68.092* and *812.035* and this chapter. (e) Refer to the agency for collection each instance of overpayment to a provider of health care under the Medicaid program which is discovered during the course of an investigation. **Credits** Added by *Laws 1991, c. 91-282, § 50*; *Laws 1994, c. 94-251, § 6*; *Laws 1996, c. 96-280, § 2*; *Laws 1996, c. 96-387, § 6*; *Laws 1997, c. 97-290, § 2*. Amended by *Laws 2000, c. 2000-163, § 6, eff. July 1, 2000*; *Laws 2002, c. 2002-400, § 31, eff. June 7, 2002*; *Laws 2004, c. 2004-344, § 8, eff. July 1, 2004*; *Laws 2009, c. 2009-223, § 19, eff. July 1, 2009*; *Laws 2013, c. 2013-150, § 4, eff. July 1, 2013*; *Laws 2020, c. 2020-156, § 43, eff. July 1, 2020*. **Fla. Stat. § 456.054 - Kickbacks prohibited** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0456/Sections/0456.054.html* § 456.054. Kickbacks prohibited (1) As used in this section, the term "kickback" means a remuneration or payment, by or on behalf of a provider of health care services or items, to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense. (2) It is unlawful for any health care provider or any provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients. (3)(a) It is unlawful for any person or any entity to pay or receive, directly or indirectly, a commission, bonus, kickback, or rebate from, or to engage in any form of a split-fee arrangement with, a dialysis facility, health care practitioner, surgeon, person, or entity for referring patients to a clinical laboratory as defined in *s. 483.803*. (b) It is unlawful for any clinical laboratory to: 1. Provide personnel to perform any functions or duties in a health care practitioner's office or dialysis facility for any purpose, including for the collection or handling of specimens, directly or indirectly through an employee, contractor, independent staffing company, lease agreement, or otherwise, unless the laboratory and the practitioner's office, or dialysis facility, are wholly owned and operated by the same entity. 2. Lease space within any part of a health care practitioner's office or dialysis facility for any purpose, including for the purpose of establishing a collection station where materials or specimens are collected or drawn from patients. (4) Violations of this section shall be considered patient brokering and shall be punishable as provided in *s. 817.505*. **Credits**

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	Added by *Laws 1992, c. 92-178, § 8*; *Laws 1996, c. 96-152, § 2*; *Fla.St.1996, Supp. § 455.237*; *Laws 1997, c. 97-261, § 79*; *Laws 1999, c. 99-204, § 8*; *Fla.St.1999, § 455.657*. Renumbered as 456.054 by *Laws 2000, c. 2000-160, § 78, eff. July 4, 2000*. Amended by *Laws 2006, c. 2006-305, § 6, eff. July 1, 2006*; *Laws 2018, c. 2018-24, § 91, eff. July 1, 2018*. **Fla. Stat. § 458.331 - Grounds for disciplinary action; action by the board and department** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0458/Sections/0458.331.html* **458.331. Grounds for disciplinary action; action by the board and department** *Currentness* (1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in *s. 456.072(2)*: (a) Attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board. (b) Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license. (c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine. (d) False, deceptive, or misleading advertising. (e) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board. However, a person who the licensee knows is unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in *s. 456.076* rather than to the department. (f) Aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board. (g) Failing to perform any statutory or legal obligation placed upon a licensed physician. (h) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician. (i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a physician from receiving a fee for professional consultation services. (j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician. (k) Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine. (*l*) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient. (m) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations. (n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs. (*o*) Promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice." (p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in *s. 743.064*, *s. 766.103*, or *s. 768.13*. (q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent. (r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs. (s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The

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	licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in *s. 51.011*. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients. (t) Notwithstanding *s. 456.072(2)* but as specified in *s. 456.50(2)*: 1. Committing medical malpractice as defined in *s. 456.50*. The board shall give great weight to the provisions of *s. 766.102* when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in *s. 456.50*. A person found by the board to have committed repeated medical malpractice based on *s. 456.50* may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify. (u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed, and written consent. (v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals. (w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them. (x) Violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department. (y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services. (z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy. (aa) Presigning blank prescription forms. (bb) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use. (cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for: 1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction; 2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or 3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun. (dd) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses, or anesthesiologist assistants acting under the supervision of the physician. (ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use. (ff) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person. (gg) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure. (hh) Improperly interfering with an investigation or with any disciplinary proceeding. (ii) Failing to report to the department any licensee under this chapter or under chapter 459 who the physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the physician or physician assistant also provides services. (jj) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation. (kk) Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

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	(*ll*) Advertising or holding oneself out as a board-certified specialist, if not qualified under *s. 458.3312*, in violation of this chapter. (mm) Failing to comply with the requirements of *ss. 381.026* and *381.0261* to provide patients with information about their patient rights and how to file a patient complaint. (nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto. (*oo*) Providing deceptive or fraudulent expert witness testimony related to the practice of medicine. (pp) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in *s. 458.3265* or *s. 459.0137*: 1. Registering a pain-management clinic through misrepresentation or fraud; 2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making, or causing to be made, any false representation; 3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; *21 U.S.C. ss. 301-392*, the Federal Food, Drug, and Cosmetic Act; *21 U.S.C. ss. 821 et seq.*, the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act; 4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States; 5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter; 6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession; 7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud; 8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in *s. 465.003* or *s. 893.02* if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or 9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by *s. 458.3265(3)*. (qq) Failing to timely notify the department of the theft of prescription blanks from a pain-management clinic or a breach of a physician's electronic prescribing software within 24 hours as required by *s. 458.3265(3)*. (rr) Promoting or advertising through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in chapter 893. (ss) Dispensing a controlled substance listed in Schedule II or Schedule III in violation of *s. 465.0276*. (tt) Willfully failing to comply with *s. 627.64194* or *s. 641.513* with such frequency as to indicate a general business practice. (uu) Issuing a physician certification, as defined in *s. 381.986*, in a manner out of compliance with the requirements of that section and rules adopted thereunder. (vv) Performing a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is removed, a Level II office surgery, or a Level III office surgery in an office that is not registered with the department pursuant to *s. 458.328* or *s. 459.0138*. (ww) Implanting a patient or causing a patient to be implanted with a human embryo created with the human reproductive material, as defined in s. 784.086, of the licensee, or inseminating a patient or causing a patient to be inseminated with the human reproductive material of the licensee. (2) The board may enter an order denying licensure or imposing any of the penalties in *s. 456.072(2)* against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of *s. 456.072(1)*. In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician. (3) In any administrative action against a physician which does not involve revocation or suspension of license, the division shall have the burden, by the greater weight of the evidence, to establish the existence of grounds for disciplinary action. The division shall establish grounds for revocation or suspension of license by clear and convincing evidence. (4) The board shall not reinstate the license of a physician, or cause a license to be issued to a person it deems or has deemed unqualified, until such time as it is satisfied that he or she has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of medicine. However, the board may not issue a license to, or reinstate the license of, any medical doctor found by the board to have committed repeated medical malpractice based on *s. 456.50*, regardless of the extent to which the licensee or prospective licensee has complied with all terms and conditions set forth in the final order and is capable of safely engaging in the practice of medicine. (5) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license. "Gross medical malpractice," "repeated medical malpractice," and "medical malpractice," under paragraph (1)(t) shall each be considered distinct types of violations requiring specific individual guidelines. (6) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against a physician pursuant to *s. 627.912* or from a health care practitioner of a report pursuant to *s. 456.049*, or upon the receipt from a claimant of a presuit notice against a physician pursuant to *s. 766.106*, the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of *s. 456.073* shall apply. However, if it is reported that a physician has had three or more claims with indemnities exceeding $50,000 each within the previous 5-year period, the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the physician is warranted.

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	(7) Upon the department's receipt from the Agency for Health Care Administration pursuant to s. 395.0197 of the name of a physician whose conduct may constitute grounds for disciplinary action by the department, the department shall investigate the occurrences upon which the report was based and determine if action by the department against the physician is warranted. (8) If any physician regulated by the Division of Medical Quality Assurance is guilty of such unprofessional conduct, negligence, or mental or physical incapacity or impairment that the division determines that the physician is unable to practice with reasonable skill and safety and presents a danger to patients, the division shall be authorized to maintain an action in circuit court enjoining such physician from providing medical services to the public until the physician demonstrates the ability to practice with reasonable skill and safety and without danger to patients. (9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to *s. 395.0197(6)*; a report of an adverse incident which is provided to the department pursuant to *s. 395.0197*; a report of peer review disciplinary action submitted to the department pursuant to *s. 395.0193(4)* or *s. 458.337*, providing that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by *ss. 395.0193(8)* and *458.337(3)*; a report of a closed claim submitted pursuant to *s. 627.912*; a presuit notice submitted pursuant to *s. 766.106(2)*; and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to *s. 766.305(2)*. The physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the physician of the complaint or document. The physician's written response shall be considered by the probable cause panel. (10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated *s. 456.072* or this section must include one physician assistant. The physician assistant must hold a valid license to practice as a physician assistant in this state and be appointed to the panel by the Council of Physician Assistants. The physician assistant may hear only cases involving disciplinary actions against a physician assistant. If the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in *s. 458.307(4)* do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection. (11) The purpose of this section is to facilitate uniform discipline for those acts made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference. **Credits** Added by Laws 1979, c. 79-302, §§ 1, 8; Laws 1980, c. 80-354, § 2; Laws 1981, c. 81-259, § 297; Laws 1981, c. 81-318, §§ 2, 3; Laws 1982, c. 82-32, §§ 2, 4; Laws 1983, c. 83-329, § 15; Laws 1985, c. 85-6, § 1; Laws 1985, c. 85-175, § 4; Laws 1986, c. 86-245, §§ 18, 25, 26; *Laws 1988, c. 88-1, § 25*; *Laws 1989, c. 89-275, § 18*; *Laws 1989, c. 89-283, § 16*; *Laws 1989, c. 89-374, §§ 11, 72*; *Laws 1990, c. 90-44, § 2*; *Laws 1990, c. 90-60, § 4*; *Laws 1990, c. 90-228, § 26*. Amended by *Laws 1991, c. 91-220, § 60*; *Laws 1991, c. 91-429, § 4*; *Laws 1992, c. 92-149, § 39, eff. Oct. 1, 1992*; *Laws 1992, c. 92-178, § 1*; *Laws 1992, c. 92-289, § 83, eff. Oct. 1, 1992*; *Laws 1996, c. 96-410, § 218, eff. Oct. 1, 1996*; *Laws 1997, c. 97-103, § 1090, eff. July 1, 1997*; *Laws 1997, c. 97-261, § 106, eff. July 1, 1997*; *Laws 1997, c. 97-264, § 23, eff. July 1, 1997*; *Laws 1998, c. 98-89, § 37, eff. July 1, 1998*; *Laws 1998, c. 98-166, § 46, eff. July 1, 1998*; *Laws 1999, c. 99-8, § 222, eff. June 29, 1999*; *Laws 1999, c. 99-397, § 99, eff. July 1, 1999*; *Laws 2000, c. 2000-160, § 105, eff. July 4, 2000*; *Laws 2001, c. 2001-277, §§ 21, 76, eff. July 1, 2001*; *Laws 2003, c. 2003-416, § 25, eff. Sept. 15, 2003*; *Laws 2004, c. 2004-303, § 2, eff. July 1, 2004*; *Laws 2005, c. 2005-240, § 3, eff. July 1, 2005*; *Laws 2005, c. 2005-266, § 3, eff. June 20, 2005*; *Laws 2006, c. 2006-242, § 1, eff. July 1, 2006*; *Laws 2008, c. 2008-6, § 73, eff. July 1, 2008*; *Laws 2010, c. 2010-211, § 6, eff. Oct. 1, 2010*; *Laws 2011, c. 2011-141, § 6, eff. July 1, 2011*; *Laws 2011, c. 2011-233, § 2, eff. Oct. 1, 2011*; *Laws 2013, c. 2013-166, § 2, eff. July 1, 2016*; *Laws 2016, c. 2016-145, § 17, eff. July 1, 2016*; *Laws 2016, c. 2016-222, § 9, eff. July 1, 2016*; *Laws 2016, c. 2016-224, § 22, eff. April 14, 2016*; *Laws 2017, c. 2017-41, § 8, eff. May 31, 2017*; *Laws 2017, c. 2017-232, §§ 1, 4, eff. June 23, 2017*; *Laws 2018, c. 2018-13, § 14, eff. Jan. 1, 2019*; *Laws 2018, c. 2018-106, § 50, eff. Oct. 1, 2018*; *Laws 2019, c. 2019-112, § 6, eff. Jan. 1, 2020*; *Laws 2019, c. 2019-130, § 4, eff. Jan. 1, 2020*; *Laws 2020, c. 2020-31, § 4, eff. July 1, 2020*; *Laws 2022, c. 2022-35, § 14, eff. July 1, 2022*. TITLE 59 AGENCY FOR HEALTH CARE ADMINISTRATION DIVISION 59G MEDICAID **CHAPTER 59G-9 OVERSIGHT OF INTEGRITY** 59G-9.070, F.A.C. - **Administrative Sanctions on Providers, Entities, and Persons.** *https://ahca.myflorida.com/content/download/7013/file/59G_9070_Admin_Sanctions_on_Providers,_Entities_Persons.pdf* **Fla. Admin. Code r. 59G-9.070** **59G-9.070. Administrative Sanctions on Providers, Entities, and Persons.** ***Currentness*** (1) Purpose. This rule provides notice of administrative sanctions imposed upon a provider, entity, or person for each violation of any Medicaid-related law. (2) Applying and reporting sanctions. Notice of the application of sanctions will be by way of written correspondence, and the final notice shall be the point of entry for administrative proceedings pursuant to Chapter 120, F.S. Satisfaction of an overpayment following a preliminary audit report, will not avoid the application of sanctions at a final audit report, unless the Agency for Health Care Administration (Agency) offers amnesty

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	pursuant to *section 409.913(25)(e), F.S*. The Agency shall report all sanctions imposed upon any provider, entity, or person, or any principal, officer, director, agent, managing employee, or affiliated person of a provider, who is regulated by another state entity, regardless of whether enrolled in the Medicaid program, to that other state entity. Sanctions are imposed upon the Final Order being filed with the Agency Clerk. (3) Definitions. (a) "Audit report" is the written notice of determination that a violation of Medicaid laws has occurred, and where the violation results in an overpayment, it also shows the calculation of overpayments. (b) "Claim" is as defined in *section 409.901(6), F.S*., and includes the total monthly payment to a provider for per diem payments, and the payment of a capitation rate for a Medicaid recipient. (c) "Contemporaneous records" means records created at the time the goods or services were provided, unless otherwise specified in Medicaid laws, or the laws that govern the provider's profession. (d) A "Corrective action plan" is an activity to address the specific areas of non-compliance, determined by the Agency, to reduce the risk of future non-compliance. (e) An "Erroneous claim" is an application for payment from the Medicaid program, or its fiscal agent, that contains an inaccuracy. (f) "Fine" is a monetary sanction. The amount of a fine shall be as set forth within this rule. (g) A "False claim" is as provided for in the Florida False Claims Act, set forth in Chapter 68, F.S. (h) "Offense" means the occurrence of one or more violations as set forth in a final audit report. For purposes of the progressive nature of sanctions under this rule, offenses are characterized as "first," "second," "third," or "subsequent" offenses; subsequent offenses are any occurrences after a third offense. (i) "Patient record" means the patient's medical record, including all documentation maintained by the provider, entity, or person to document furnishing, ordering, or authorizing goods or services, and includes the documentation in multiple files if the practitioner maintains separate files for different types of documentation. (j) "Patient record request" means a request by the Agency for Medicaid-related documentation or information. Such requests are not limited to Agency audits to determine overpayments or violations, and are not limited to enrolled Medicaid providers. Each requesting document constitutes a single patient record request. (k) "Pattern of erroneous claims" is defined as when more than 5% of the claims reviewed are found to contain an error, or the reimbursements for the claims found to contain an error, are more than 5% of the total reimbursement for the claims reviewed. (l) "Provider" is as defined in *section 409.901(17), F.S*., and includes all of the provider's locations that have the same base provider number (with separate locator codes). (m) "Provider group" is more than one individual provider practicing under the same tax identification number, enrolled in the Medicaid program as a group for billing purposes, and having one or more locations. (n) "Sanction" shall be any monetary or non-monetary disincentive imposed pursuant to this rule; a monetary sanction may be referred to as a "fine." (o) "Suspension" is a one-year preclusion from furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services that result in a claim for payment to the Medicaid program. Suspension applies to any person, corporation, partnership, association, clinic, group, or other entity, whether or not enrolled in the Medicaid program. (p) "Termination" is a twenty-year preclusion from furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services that result in a claim for payment to the Medicaid program. Termination applies to any person, corporation, partnership, association, clinic, group, or other entity, whether or not enrolled in the Medicaid program; however, if termination is imposed against a provider enrolled in the Medicaid program, the provider agreement shall also be terminated. A termination pursuant to this rule is also called a "for cause" or "with cause" termination. (q) "Violation" means any omission or act performed by a provider, entity, or person that is contrary to Medicaid laws, the laws that govern the provider's profession, or the Medicaid provider agreement. 1. For purposes of this rule, each day that an ongoing violation continues, and each instance of an act or omission contrary to a Medicaid law, a law that governs the provider's profession, or the Medicaid provider agreement shall be considered a "separate violation." 2. For purposes of determining first, second, third, or subsequent offenses under this rule, prior Agency actions during the preceding five years will be counted where the provider, entity, or person was deemed to have committed the same violation. 3. The failure to comply with a corrective action plan constitutes a violation, and is an ongoing violation, for each day following the deadline for submission of the corrective action plan that the failure continues. 4. For purposes of determining a violation regarding including an unallowed cost in a cost report (paragraph (7)(k) and *section 409.913(15)(k), F.S*.), if the unallowed cost or costs are the subject of an administrative hearing pursuant to Chapter 120, F.S., inclusion of the unallowed cost, or costs, in a cost report is not a violation until the conclusion of the administrative proceedings. 5. For purposes of violations under paragraph (7)(n) of this rule, regarding purchase shortages (as opposed to shortages of time), each good found to be short, by units of each type of goods, such as each tablet of a particular drug, is a violation. 6. For purposes of violations under paragraph (7)(q) of this rule (generally, non-payment on a payment plan), a second, third, or subsequent offense occurs when there has been a prior violation on any repayment agreement. (4) Limits on sanctions. (a) Where a sanction is applied for violations of Medicaid laws (under paragraph (7)(e) of this rule), for a pattern of erroneous claims (under paragraph (7)(h) of this rule), or shortages of goods (under paragraph (7)(n) of this rule), and the violations are a "first offense" as set forth in this rule, if the cumulative amount of the fine to be imposed as a result of the violations giving rise to that overpayment exceeds 20% of the amount of the overpayment, the fine shall be adjusted to 20% of the amount of the overpayment. (b) Where a sanction is applied for violations of Medicaid laws (under paragraph (7)(e) of this rule), for a pattern of erroneous claims (under paragraph (7)(h) of this rule), or shortages of goods (under paragraph (7)(n) of this rule), and the violations are a "second offense" as set forth in this rule, if the cumulative amount of the fine to be imposed as a result of the violations giving rise to that overpayment exceeds 40% of the amount of the overpayment, the fine shall be adjusted to 40% of the amount of the overpayment.

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	(c) Where a sanction is applied for violations of Medicaid laws (under paragraph (7)(e) of this rule), for a pattern of erroneous claims (under paragraph (7)(h) of this rule), or shortages of goods (under paragraph (7)(n) of this rule), and the violations are a "third" or "subsequent" offense, if the cumulative amount of the fine for violations giving rise to the overpayment exceeds 50% of the amount of the overpayment, the fine shall be adjusted to 50% of the amount of the overpayment. (d) Where the audit report does not include an overpayment determination, it only applies a sanction, and where a fine is assessed for violations that are a "first offense" as set forth in this rule, the cumulative amount of the fine shall not exceed $20,000; where the violations are a "second offense" as set forth in this rule, the cumulative amount of the fine shall not exceed $50,000; where the violations are a "third or subsequent offense" as set forth in this rule, there are no limits on the cumulative amount of the fine to be applied. (e) Where a sanction would apply pursuant to this rule, no sanction will be imposed if the Agency has instituted an amnesty pursuant to *section 409.913(25)(e), F.S.*. (5) Mandatory termination or suspension. Whenever the Agency is required to terminate or suspend participation in the Medicaid program and the required period of time for the exclusion exceeds one year, the sanction of termination shall apply. (6) Additional requirements regarding suspension and termination. (a) For purposes of this rule a "suspension" precludes participation for one year, or such shorter period of time as is set forth in this rule. The suspension period begins from the date of the Final Order that imposes the Agency action. 1. To resume participation following the suspension period, a written request must be submitted to the Agency's Bureau of Medicaid Program Integrity seeking to be reinstated in the Medicaid program. The request must include a copy of the notice of suspension and a statement regarding whether the violation(s) that brought rise to the suspension have been remedied. If the provider, entity, or person was not enrolled in the Medicaid program at the time of the suspension, the request must also include a complete and accurate provider enrollment application, even if the person or entity seeks only to prescribe, or otherwise order or authorize goods or services, and does not seek to directly furnish goods or services to Medicaid recipient; the application will be processed, and accepted or denied in the standard course of business by the Agency. 2. Participation in the Medicaid program may not resume until written confirmation is issued from the Agency indicating that participation has been authorized. Where a Medicaid provider application is required, authorization is at the point where the person or entity is enrolled as a provider; if the application is not granted, the person or entity may not resume participation. (b) For purposes of this rule, a "termination" shall preclude participation in the Medicaid program for twenty years from the date of the Agency action. The termination period begins from the date of the Final Order that imposes the Agency action, unless the termination is an "immediate termination." An immediate termination period begins from the date of notice of the termination. To resume participation, the provider, entity, or person must submit a complete and accurate provider enrollment application, which will be processed, and accepted or denied in the standard course of business by the Agency. In addition to the application, the provider, entity, or person must include a copy of the notice of termination issued by the Agency, and a written acknowledgement regarding whether the violation(s) that brought rise to the termination has been remedied. (7) Sanctions. In addition to the recoupment of the overpayment, if any, the Agency will impose sanctions as outlined in this subsection. Except when the Secretary of the Agency determines not to impose a sanction, pursuant to *section 409.913(16)(j), F.S.*, sanctions shall be imposed as follows: (a) A required license is not renewed, or is revoked, suspended, or terminated: For a first offense of suspension, suspension for the duration of the licensure suspension; for all other violations, including suspension after a first offense, termination (*section 409.913(15)(a), F.S.*). (b) For failure to make available, or refused access to Medicaid-related records necessary to review, investigate, analyze, audit, or any combination thereof, to determine if care, services, or goods were provided in compliance with applicable Medicaid laws, regulations, and policy. Making available only partial records or access is a violation: For a first offense, $2,500 fine, per record request or instance of refused access, and suspension until the records are made available or access is granted; if after 10 days the violation continues, an additional $1,000 fine, per day; and, if after 30 days the violation remains ongoing, termination. For a second offense, $5,000 fine, per record request or instance of refused access, and suspension until the records are made available or access is granted; if after 10 days the violation continues, an additional $2,000 fine, per day; and, if after 30 days the violation remains ongoing termination. For a third, or subsequent offense, termination (*section 409.913(15)(b), F.S.*). (c) For failure to make available or furnish all Medicaid-related records necessary to be used in determining whether, and what amount should have, or should be, reimbursed. Submission of partial or incomplete records does not comply with the records request and is a violation: For a first offense, $2,500 fine, per record request, and suspension until the records are made available; if after 10 days the violation continues, an additional $1,000 fine, per day; and, if after 30 days the violation remains ongoing, termination. For a second offense, $5,000 fine, per record request, and suspension until the records are made available; if after 10 days the violation continues, an additional $2,000 fine, per day; and, if after 30 days the violation remains ongoing, termination. For a third, or subsequent offense, termination (*section 409.913(15)(c), F.S.*). (d) For failure to maintain contemporaneous documentation if the records not maintained are necessary to know that care, services, or goods were provided. Contemporaneous records that are partial or incomplete are a violation: For a first offense, $250 fine, per claim; however, if there are more than two claims for the same patient without records, or more than two patients for which no records are maintained, $2,500 fine, per patient for which there are any claims without records. For a second offense, $500 fine, per claim; however, if there are more than two claims for the same patient without records, or more than two patients for which no records are maintained, $5,000 fine, per patient for which there are any claims without records. For a third or subsequent offense, termination (*section 409.913(15)(d), F.S.*). (e) For failure to comply with the provisions of the Medicaid laws: For a first offense, $1,000 fine, per claim found to be in violation. For a second offense, $2,500 fine, per claim found to be in violation. For a third, or subsequent offense, $5,000 fine, per claim found to be in violation. For a violation of law that would mandate exclusion, termination; for a violation of law that could result in patient harm, termination; for violations of prerequisites to enrollment, termination (*sections 409.907(10)*, and *409.913(14)* and *(15)(e), F.S.*).

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	(f) For furnishing, authorizing, or ordering goods or services that are inappropriate, unnecessary, excessive, of inferior quality, or harmful: For a first offense, $1,000 fine; however, if there is more than one instance, $5,000 fine, per instance; For a second offense, $5,000 fine; however, if there is more than one instance, $5,000 fine per instance, and suspension; For a third and subsequent offense, $5,000 fine per instance, and suspension, however; if there is more than one instance, termination (*section 409.913(15)(f), F.S.*). (g) For a pattern of failure to provide necessary care: For a first offense, $5,000 fine for each instance, and suspension. For a second or subsequent offense, termination (*section 409.913(15)(g), F.S.*). (h) For false, or a pattern of erroneous, Medicaid claims: 1. For false claims, termination. 2. For a first offense of a pattern of erroneous claims, $1,000 fine, per claim found to be erroneous. For a second offense of a pattern of erroneous claims, $2,500 fine, per claim found to be erroneous. For a third, or subsequent offense of a pattern of erroneous claims, $5,000 fine, per claim found to be erroneous (*section 409.913(15)(h), F.S.*). (i) For an application, renewal, prior authorization, drug exception request, or cost report with materially false or materially incorrect information: For a first offense, $10,000 fine, for each instance of false or incorrect information, and suspension. For a second, and subsequent offense, termination (*section 409.913(15)(i), F.S.*). (j) For improperly collecting or billing a recipient: For a first offense, $5,000 fine, per instance, and suspension; for a second, and subsequent offense, termination (*section 409.913(15)(j), F.S.*). (k) For including costs in a cost report that are not authorized under the Medicaid state plan, or that were disallowed during the audit process, after having been advised that the costs were not allowable: For a first offense, $5,000 fine; however, if after 30 days the violation continues, suspension, and $1,000 fine, per day that the violation continues. For a second offense, $5,000 fine; however, if after 30 days the violation continues, suspension, and $5,000 fine, per day that the violation continues. For a third, and subsequent offense, termination (*section 409.913(15)(k), F.S.*). (l) For being charged by information or indictment under federal law or the law of any state relating to the practice of the provider's profession, or an offense as referenced in *section 409.913(13), F.S.*, or a criminal offense referenced in *section 408.809(4)*, *409.907(10)*, or *435.04(2), F.S.*: Immediate suspension for the duration of the indictment and, if convicted, termination (*section 409.913(15)(l), F.S.*). (m) For negligently ordering or prescribing, which resulted in the patient's injury or death: immediate termination (*section 409.913(15)(m), F.S.*). (n) For shortages of time: For a first offense, $5,000 fine, per day found to have shortages, not to exceed the total Medicaid reimbursement for the day(s) with shortages; For a second offense, $5,000 fine, per day found to have shortages, not to exceed two-times the total Medicaid reimbursement for the day(s) with shortages; For a third or subsequent offense, termination. For shortages of goods: For a first offense, $1,000 fine, per type of good found to be short. For a second offense, $2,500 fine, per type of good found to be short. For a third, or subsequent offense, $5,000 fine, per type of good found to be short (*section 409.913(15)(n), F.S.*). (o) For failure to comply with the notice and reporting requirements of *section 409.907, F.S*: For a first offense, $2,500 fine. For a second offense: $5,000 fine. For a third, and subsequent offense: termination (*section 409.913(15)(o), F.S.*). (p) For a finding of patient abuse or neglect, or any act prohibited by *section 409.920, F.S.*: Immediate suspension, and if convicted: termination (*section 409.913(15)(p), F.S.*). (q) For failure to comply with any of the terms of a previously agreed-upon repayment schedule: For a first offense: $5,000 fine, and suspension until the violation is corrected; if after 30 days the violation continues: termination. For a second offense: $5,000 fine, and suspension until the violation is corrected, and, if the violation is not corrected within 5 calendar days, an additional $1,000 fine, per day for which the violation continues; if after 30 days the violation continues: termination. For a third, and subsequent offense: termination (*sections 409.913(15)(q)* and *409.913(25)(c), F.S.*). (r) For violations under *sections 409.913(13), F.S.* (generally, criminal offenses related to the delivery of health care, the practice of the provider's profession, and patient abuse or neglect), the Agency shall consider the violations identified in *sections 435.04* and *408.809, F.S.*, as related to the provider's profession, and shall impose immediate termination. (s) For non-payment or partial payment where monies are owed to the Agency, and failure to enter into a repayment agreement, in accordance with *sections 409.913(25)(c)* and *409.913(30), F.S.*, the Agency shall impose the sanction of termination. (8) Additional sanctions for multiple violations under the sanction rule. In the event the Agency issues an audit report wherein it has determined that violations of more than one provision of this rule (the sanction rule) have been committed, the Agency shall cumulatively apply the sanction associated with each section; if the violations invoke three or more provisions of this rule (the sanction rule), a corrective action plan will also be required. **Credits** **Adopted Apr. 19, 2005; Amended Apr. 26, 2006, Oct. 29, 2008. Amended Sept. 7, 2010; July 25, 2017.** **Rulemaking Authority** *409.919 FS.* **Law Implemented** *409.907*, *409.913*, *409.920 FS.* **History** - New 4-19-05, Amended 4-26-06, 10-29-08, 9-7-10, 7-25-17. **Fla. Stat. § 626.989 - Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0626/Sections/0626.989.html*

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	626.989. Investigation by department or Division of Investigative and Forensic Services; compliance; immunity; confidential information; reports to division; division investigator's power of arrest *Currentness* (1) For the purposes of this section: (a) A person commits a "fraudulent insurance act" if the person: 1. Knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, self-insurer, self-insurance fund, servicing corporation, purported insurer, broker, or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or a claim for payment or other benefit pursuant to any insurance policy, which the person knows to contain materially false information concerning any fact material thereto or if the person conceals, for the purpose of misleading another, information concerning any fact material thereto. 2. Knowingly submits: a. A false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400 with an intent to use the license, exemption from licensure, or demonstration of compliance to provide services or seek reimbursement under the Florida Motor Vehicle No-Fault Law. b. A claim for payment or other benefit pursuant to a personal injury protection insurance policy under the Florida Motor Vehicle No-Fault Law if the person knows that the payee knowingly submitted a false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400. (b) The term "insurer" also includes a health maintenance organization, and the term "insurance policy" also includes a health maintenance organization subscriber contract. (2) If, by its own inquiries or as a result of complaints, the department or its Division of Investigative and Forensic Services has reason to believe that a person has engaged in, or is engaging in, a fraudulent insurance act, an act or practice that violates *s. 626.9541* or *s. 817.234*, or an act or practice punishable under *s. 624.15*, it may administer oaths and affirmations, request the attendance of witnesses or proffering of matter, and collect evidence. The department or its Division of Investigative and Forensic Services shall not compel the attendance of any person or matter in any such investigation except pursuant to subsection (4). (3) If matter that the department or its division seeks to obtain by request is located outside the state, the person so requested may make it available to the division or its representative to examine the matter at the place where it is located. The division may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states. (4)(a) The department or its division may request that an individual who refuses to comply with any such request be ordered by the circuit court to provide the testimony or matter. The court shall not order such compliance unless the department or its division has demonstrated to the satisfaction of the court that the testimony of the witness or the matter under request has a direct bearing on the commission of a fraudulent insurance act, on a violation of *s. 626.9541* or *s. 817.234*, or on an act or practice punishable under *s. 624.15* or is pertinent and necessary to further such investigation. (b) Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which the individual is entitled by law may not be subjected to a criminal proceeding or to a civil penalty with respect to the act concerning which the individual is required to testify or produce relevant matter. (c) In the absence of fraud or bad faith, a person is not subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports, without malice, or furnishing other information, without malice, required by this section or required by the department or division under the authority granted in this section, and no civil cause of action of any nature shall arise against such person: 1. For any information relating to suspected fraudulent insurance acts or persons suspected of engaging in such acts furnished to or received from law enforcement officials, their agents, or employees; 2. For any information relating to suspected fraudulent insurance acts or persons suspected of engaging in such acts furnished to or received from other persons subject to the provisions of this chapter; 3. For any such information furnished in reports to the department, the division, the National Insurance Crime Bureau, the National Association of Insurance Commissioners, or any local, state, or federal enforcement officials or their agents or employees; or 4. For other actions taken in cooperation with any of the agencies or individuals specified in this paragraph in the lawful investigation of suspected fraudulent insurance acts. (d) In addition to the immunity granted in paragraph (c), persons identified as designated employees whose responsibilities include the investigation and disposition of claims relating to suspected fraudulent insurance acts may share information relating to persons suspected of committing fraudulent insurance acts with other designated employees employed by the same or other insurers whose responsibilities include the investigation and disposition of claims relating to fraudulent insurance acts, provided the department has been given written notice of the names and job titles of such designated employees prior to such designated employees sharing information. Unless the designated employees of the insurer act in bad faith or in reckless disregard for the rights of any insured, neither the insurer nor its designated employees are civilly liable for libel, slander, or any other relevant tort, and a civil action does not arise against the insurer or its designated employees: 1. For any information related to suspected fraudulent insurance acts provided to an insurer; or 2. For any information relating to suspected fraudulent insurance acts provided to the National Insurance Crime Bureau or the National Association of Insurance Commissioners. Provided, however, that the qualified immunity against civil liability conferred on any insurer or its designated employees shall be forfeited with respect to the exchange or publication of any defamatory information with third persons not expressly authorized by this paragraph to share in such information.

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	(e) The Chief Financial Officer and any employee or agent of the department, commission, office, or division, when acting without malice and in the absence of fraud or bad faith, is not subject to civil liability for libel, slander, or any other relevant tort, and no civil cause of action of any nature exists against such person by virtue of the execution of official activities or duties of the department, commission, or office under this section or by virtue of the publication of any report or bulletin related to the official activities or duties of the department, division, commission, or office under this section. (f) This section does not abrogate or modify in any way any common-law or statutory privilege or immunity heretofore enjoyed by any person. (5) The office's and the department's papers, documents, reports, or evidence relative to the subject of an investigation under this section are confidential and exempt from the provisions of *s. 119.07(1)* until such investigation is completed or ceases to be active. For purposes of this subsection, an investigation is considered "active" while the investigation is being conducted by the office or department with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the office or department is proceeding with reasonable dispatch and has a good faith belief that action could be initiated by the office or department or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, portions of records relating to the investigation shall remain exempt from the provisions of *s. 119.07(1)* if disclosure would: (a) Jeopardize the integrity of another active investigation; (b) Impair the safety and soundness of an insurer; (c) Reveal personal financial information; (d) Reveal the identity of a confidential source; (e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or (f) Reveal investigative techniques or procedures. Further, such papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to discovery until the investigation is completed or ceases to be active. Office, department, or division investigators shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the division. (6)(a) Any person, other than an insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under *s. 817.234*, is being or has been committed may send to the Division of Investigative and Forensic Services a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may request. Any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in *s. 766.101*, any private medical review committee, and any insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under *s. 817.234*, is being or has been committed shall send to the Division of Investigative and Forensic Services a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may require. (b) The Division of Investigative and Forensic Services shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under *s. 817.234*, is being committed. (c) The Division of Investigative and Forensic Services shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction, including, but not limited to, the statewide prosecutor for crimes that impact two or more judicial circuits in this state, with respect to any such violation, as provided in *s. 624.310*. The state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the division of any reasons why prosecution of such violation was: 1. Not begun within 60 days after the division's report; or 2. Declined. (7) Division investigators shall have the power to make arrests for criminal violations established as a result of investigations. Such investigators shall also be considered state law enforcement officers for all purposes and shall have the power to execute arrest warrants and search warrants; to serve subpoenas issued for the examination, investigation, and trial of all offenses; and to arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws. Investigators empowered to make arrests under this section shall be empowered to bear arms in the performance of their duties. In such a situation, the investigator must be certified in compliance with the provisions of *s. 943.1395* or must meet the temporary employment or appointment exemption requirements of *s. 943.131* until certified. (8) It is unlawful for any person to resist an arrest authorized by this section or in any manner to interfere, either by abetting or assisting such resistance or otherwise interfering, with division investigators in the duties imposed upon them by law or department rule. (9) In recognition of the complementary roles of investigating instances of workers' compensation fraud and enforcing compliance with the workers' compensation coverage requirements under chapter 440, the Department of Financial Services shall prepare and submit a joint performance report to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year. The annual report must include, but need not be limited to: (a) The total number of initial referrals received, cases opened, cases presented for prosecution, cases closed, and convictions resulting from cases presented for prosecution by the Bureau of Workers' Compensation Insurance Fraud by type of workers' compensation fraud and circuit. (b) The number of referrals received from insurers and the Division of Workers' Compensation and the outcome of those referrals. (c) The number of investigations undertaken by the Bureau of Workers' Compensation Insurance Fraud which were not the result of a referral from an insurer or the Division of Workers' Compensation. (d) The number of investigations that resulted in a referral to a regulatory agency and the disposition of those referrals.

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	(e) The number and reasons provided by local prosecutors or the statewide prosecutor for declining prosecution of a case presented by the Bureau of Workers' Compensation Insurance Fraud by circuit. (f) The total number of employees assigned to the Bureau of Workers' Compensation Insurance Fraud and the Division of Workers' Compensation Bureau of Compliance delineated by location of staff assigned; and the number and location of employees assigned to the Bureau of Workers' Compensation Insurance Fraud who were assigned to work other types of fraud cases. (g) The average caseload and turnaround time by type of case for each investigator and division compliance employee. (h) The training provided during the year to workers' compensation fraud investigators and the division's compliance employees. (10) The Bureau of Insurance Fraud of the Division of Investigative and Forensic Services shall prepare and submit a performance report to the President of the Senate and the Speaker of the House of Representatives by September 1 of each year. The annual report must include, but need not be limited to: (a) The total number of initial referrals received, cases opened, cases presented for prosecution, cases closed, and convictions resulting from cases presented for prosecution by the Bureau of Insurance Fraud, by type of insurance fraud and circuit. (b) The number of referrals received from insurers, the office, and the Division of Consumer Services of the department, and the outcome of those referrals. (c) The number of investigations undertaken by the Bureau of Insurance Fraud which were not the result of a referral from an insurer and the outcome of those referrals. (d) The number of investigations that resulted in a referral to a regulatory agency and the disposition of those referrals. (e) The number of cases presented by the Bureau of Insurance Fraud which local prosecutors or the statewide prosecutor declined to prosecute and the reasons provided for declining prosecution. (f) A summary of the annual report required under *s. 626.9896*. (g) The total number of employees assigned to the Bureau of Insurance Fraud, delineated by location of staff assigned, and the number and location of employees assigned to the Bureau of Insurance Fraud who were assigned to work other types of fraud cases. (h) The average caseload and turnaround time by type of case for each investigator. (i) The training provided during the year to insurance fraud investigators. **Credits** Added by Laws 1976, c. 76-266, § 9; Laws 1977, c. 77-104, § 211; Laws 1977, c. 77-468, § 20; Laws 1978, c. 78-258, § 2; Laws 1979, c. 79-81, § 2; Laws 1979, c. 79-400, § 237; Laws 1981, c. 81-48, § 3; Laws 1983, c. 83-216, § 92; Laws 1983, c. 83-288, § 30; *Laws 1987, c. 87-334, § 1*; *Laws 1989, c. 89-42, § 1*; *Laws 1990, c. 90-363, § 189*; *Laws 1992, c. 92-324, § 11*; *Laws 1993, c. 93-80, § 10*; *Laws 1993, c. 93-252, § 8*; *Laws 1994, c. 94-218, § 224*; *Laws 1995, c. 95-340, § 5*. Amended by *Laws 1996, c. 96-406, § 378, eff. July 3, 1996*; *Laws 1997, c. 97-102, § 1729, eff. July 1, 1997*; *Laws 1998, c. 98-174, § 15, eff. Jan. 1, 1999*; *Laws 1999, c. 99-204, § 2, eff. Oct. 1, 1999*; *Laws 2001, c. 2001-271, § 4, eff. June 19, 2001*; *Laws 2001, c. 2001-277, § 87, eff. July 1, 2001*; ; *Laws 2002, c. 2002-194, § 66, eff. July 1, 2002*; *Laws 2003, c. 2003-148, § 5, eff. July 1, 2003*; *Laws 2003, c. 2003-261, § 1041, eff. June 26, 2003*; *Laws 2003, c. 2003-412, § 43, eff. Oct. 1, 2003*; *Laws 2004, c. 2004-390, § 77, eff. July 1, 2004*; *Laws 2012, c. 2012-197, § 4, eff. July 1, 2012*; *Laws 2013, c. 2013-15, § 105, eff. July 2, 2013*; *Laws 2016, c. 2016-165, § 15, eff. July 1, 2016*; *Laws 2018, c. 2018-46, § 4, eff. July 1, 2018*; *Laws 2023, c. 2023-172, § 15, eff. July 1, 2023*. **Fla. Stat. § 641.37 - Prohibited activities; penalties** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0641/Sections/0641.37.html* (1) Any person or entity which knowingly renews, issues, or delivers any health maintenance contract without first obtaining and thereafter maintaining a certificate of authority is guilty of a felony of the third degree, punishable as provided in *s. 775.082* or *s. 775.083*. (2) Except as provided in subsection (1), any person, entity, or health maintenance organization which knowingly violates the provisions of this part is guilty of a misdemeanor of the first degree, punishable as provided in *s. 775.082* or *s. 775.083*. (3) Any agent or representative, examining physician, applicant, or other person who knowingly makes any false and **fraudulent** statements or representation in, or with reference to, any application or negotiation for health maintenance organization coverage is, in addition to any other penalty provided by law, guilty of a misdemeanor of the first degree, punishable as provided in *s. 775.082* or *s. 775.083*. (4) Any agent, representative, collector, or other person who, while acting on behalf of a health maintenance organization, receives or collects its funds or premium payments and fails to satisfactorily account for or turn over, when required, all such funds or payments is, in addition to the other penalties provided for by law, guilty of a misdemeanor of the second degree, punishable as provided in *s. 775.082* or *s. 775.083*. (5) Any person who, without authority granted by a health maintenance organization, collects or secures cash advances, premium payments, or other funds owing to the health maintenance organization or otherwise conducts the business of a health maintenance organization without its authority is, in addition to the other penalties provided for by law, guilty of a misdemeanor of the second degree, punishable as provided in *s. 775.082* or *s. 775.083*.

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	History: S. 21, ch. 72-264; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 801, 804, 809(1st), ch. 82-243; s. 34, ch. 85-177; s. 52, *ch. 87-226*; ss. 187, 188, *ch. 91-108*; s. 164, *ch. 91-224*; s. 4, *ch. 91-429*; s. 26, *ch. 96-199*; s. 70, *ch. 2002-206*. **Fla. Stat. § 641.3903 - Unfair methods of competition and unfair or deceptive acts or practices defined** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0641/Sections/0641.3903.html* The following are defined as unfair methods of competition and unfair or deceptive acts or practices: (1) *Misrepresentation and false advertising of health maintenance contracts.* --Knowingly making, issuing, or circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which: (a) Misrepresents the benefits, advantages, conditions, or terms of any health maintenance contract. (b) Is misleading, or is a misrepresentation as to the financial condition of any person. (c) Uses any name or title of any contract misrepresenting the true nature thereof. (d) Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any health maintenance contract or health insurance policy, or contract providing health insurance as defined in *s. 624.603*. (e) Misrepresents the benefits, nature, characteristics, uses, standard, quantity, quality, cost, rate, scope, source, or geographic origin or location of any goods or services available from or provided by, directly or indirectly, any health maintenance organization. (f) Misrepresents the affiliation, connection, or association of any goods, services, or business establishment. (g) Advertises goods or services with intent not to sell them as advertised. (h) Disparages the goods, services, or business of another person by any false or misleading representation. (i) Misrepresents the sponsorship, endorsement, approval, or certification of goods or services. (j) Uses an advertising format which, by virtue of the design, location, or size of printed matter, is deceptive or misleading or which would be deceptive or misleading to any reasonable person. (k) Offers to provide a service which the health maintenance organization is unable to provide. (l) Misrepresents the availability of a service provided by the health maintenance organization, either directly or indirectly, including the availability of the service as to location. (2) *False information and advertising generally.* --Knowingly making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public: (a) In a newspaper, magazine, or other publication; (b) In the form of a notice, circular, pamphlet, letter, or poster;

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	(c) Over any radio or television station; or (d) In any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of the health maintenance organization which is untrue, deceptive, or misleading. (3) *Defamation.* --Knowingly making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of, any oral or written statement, or any pamphlet, circular, article, or literature, which is false or maliciously critical of any person and which is calculated to injure such person. (4) *False statements and entries.* (a) Knowingly: 1. Filing with any supervisory or other public official, 2. Making, publishing, disseminating, or circulating, 3. Delivering to any person, 4. Placing before the public, or 5. Causing, directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or place before the public, any material false statement. (b) Knowingly making any false entry of a material fact in any book, report, or statement of any person. (5) *Unfair claim settlement practices.* (a) Attempting to settle claims on the basis of an application or any other material document which was altered without notice to, or knowledge or consent of, the subscriber or group of subscribers to a health maintenance organization; (b) Making a material misrepresentation to the subscriber for the purpose and with the intent of effecting settlement of claims, loss, or damage under a health maintenance contract on less favorable terms than those provided in, and contemplated by, the contract; or (c) Committing or performing with such frequency as to indicate a general business practice any of the following: 1. Failing to adopt and implement standards for the proper investigation of claims; 2. Misrepresenting pertinent facts or contract provisions relating to coverage at issue; 3. Failing to acknowledge and act promptly upon communications with respect to claims; 4. Denying of claims without conducting reasonable investigations based upon available information;

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	5. Failing to affirm or deny coverage of claims upon written request of the subscriber within a reasonable time not to exceed 30 days after a claim or proof-of-loss statements have been completed and documents pertinent to the claim have been requested in a timely manner and received by the health maintenance organization; 6. Failing to promptly provide a reasonable explanation in writing to the subscriber of the basis in the health maintenance contract in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; 7. Failing to provide, upon written request of a subscriber, itemized statements verifying that services and supplies were furnished, where such statement is necessary for the submission of other insurance claims covered by individual specified disease or limited benefit policies, provided that the organization may receive from the subscriber a reasonable administrative charge for the cost of preparing such statement; 8. Failing to provide any subscriber with services, care, or treatment contracted for pursuant to any health maintenance contract without a reasonable basis to believe that a legitimate defense exists for not providing such services, care, or treatment. To the extent that a national disaster, war, riot, civil insurrection, epidemic, or any other emergency or similar event not within the control of the health maintenance organization results in the inability of the facilities, personnel, or financial resources of the health maintenance organization to provide or arrange for provision of a health service in accordance with requirements of this part, the health maintenance organization is required only to make a good faith effort to provide or arrange for provision of the service, taking into account the impact of the event. For the purposes of this paragraph, an event is not within the control of the health maintenance organization if the health maintenance organization cannot exercise influence or dominion over its occurrence; or 9. Systematic downcoding with the intent to deny reimbursement otherwise due. (6) *Failure to maintain complaint-handling procedures.* --Failure of any person to maintain a complete record of all the complaints received since the date of the most recent examination of the health maintenance organization by the office. For the purposes of this subsection, the term "complaint" means any written communication primarily expressing a grievance and requesting a remedy to the grievance. (7) *Operation without a subsisting certificate of authority.* --Operation of a health maintenance organization by any person or entity without a subsisting certificate of authority therefor or renewal, issuance, or delivery of any health maintenance contract by a health maintenance organization, person, or entity without a subsisting certificate of authority. (8) *Misrepresentation in health maintenance organization applications.* --Knowingly making false or **fraudulent** statements or representations on, or relative to, an application for a health maintenance contract for the purpose of obtaining a fee, commission, money, or other benefits from any health maintenance organization; agent; or representative, broker, or individual. (9) *Twisting.* --Knowingly making any misleading representations or incomplete or **fraudulent** comparisons of any health maintenance contracts or health maintenance organizations or of any insurance policies or insurers for the purpose of inducing, or intending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or health maintenance contract or to take out a health maintenance contract or policy of insurance in another health maintenance organization or insurer. (10) *Illegal dealings in premiums; excess or reduced charges for health maintenance coverage.* (a) Knowingly collecting any sum as a premium or charge for health maintenance coverage which is not then provided or is not in due course to be provided, subject to acceptance of the risk by the health maintenance organization, by a health maintenance contract issued by a health maintenance organization as permitted by this part. (b) Knowingly collecting as a premium or charge for health maintenance coverage any sum in excess of or less than the premium or charge applicable to health maintenance coverage, in accordance with the applicable classifications and rates as filed with the office, and as specified in the health maintenance contract. (11) *False claims; obtaining or retaining money dishonestly.* --Any agent or representative, physician, claimant, or other person who causes to be presented to any health maintenance organization a false claim for payment knowing the same to be false. (12) *Prohibited discriminatory practices.* --A health maintenance organization may not: (a) Engage or attempt to engage in discriminatory practices that discourage participation on the basis of actual or perceived health status of Medicaid recipients.

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	(b) Refuse to provide services or care to a subscriber solely because medical services may be or have been sought for injuries resulting from an assault, battery, sexual assault, sexual battery, or any other offense by a family or household member, as defined in s. 741.28, or by another who is or was residing in the same dwelling unit. (13) *Misrepresentation in health maintenance organization; availability of providers.* --Knowingly misleading potential enrollees as to the availability of providers. (14) *Adverse action against a provider.* --Any retaliatory action by a health maintenance organization against a contracted provider, including, but not limited to, termination of a contract with the provider, on the basis that the provider communicated information to the provider's patient regarding medical care or treatment options for the patient when the provider deems knowledge of such information by the patient to be in the best interest of the patient. (15) *Participation in a wellness or health improvement program.*. (a) *Authorization to offer rewards or incentives for participation.*. --A health maintenance organization issuing a group or individual health benefit plan may offer a voluntary wellness or health improvement program and may encourage or reward participation in the program by authorizing rewards or incentives, including, but not limited to, merchandise, gift cards, debit cards, premium discounts, contributions to a member's health savings account, or modifications to copayment, deductible, or coinsurance amounts. (b) *Verification of medical condition by nonparticipants due to medical condition.*. --A health maintenance organization may require a member of a health benefit plan to provide verification, such as an affirming statement from the member's physician, that the member's medical condition makes it unreasonably difficult or inadvisable to participate in the wellness or health improvement program in order for that nonparticipant to receive the reward or incentive. (c) *Disclosure requirement.*. --A reward or incentive offered under this subsection shall be disclosed in the policy or certificate. (d) *Other incentives.*. --This subsection does not prohibit health maintenance organizations from offering other incentives or rewards for adherence to a wellness or health improvement program if otherwise authorized by state or federal law. **History:** SS. 36, 47, ch. 85-177; ss. 187, 188, ch. 91-108; s. 4, ch. 91-429; s. 28, ch. 96-199; s. 6, ch. 96-223; s. 1, ch. 99-264; s. 5, ch. 2000-252; s. 8, ch. 2002-55; s. 1591, ch. 2003-261; s. 2, ch. 2011-167, eff. July 1, 2011. --- Fla. Stat. § 414.39 **- Fraud.** **(1)** Any person who knowingly: **(a)** Fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to such person's qualification to receive public assistance under any state or federally funded assistance program; **(b)** Fails to disclose a change in circumstances in order to obtain or continue to receive any such public assistance to which he or she is not entitled or in an amount larger than that to which he or she is entitled; or **(c)** Aids and abets another person in the commission of any such act, commits a crime and shall be punished as provided in subsection (5). **(2) (a)** Any person who knowingly: **1.** Uses, transfers, acquires, traffics, alters, forges, or possesses;

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	2. Attempts to use, transfer, acquire, traffic, alter, forge, or possess; or **3.** Aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of, a food assistance identification card, an authorization, including, but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law commits a crime and shall be punished as provided in subsection (5). **(b)** As used in this subsection, the term "traffic" includes: **1.** Buying, selling, stealing, or otherwise effecting an exchange of food assistance benefits issued and accessed via electronic benefits transfer (EBT) cards, electronic benefits transfer (EBT) card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; **2.** Attempting to buy, sell, steal, or otherwise effect an exchange of food assistance benefits issued and accessed via electronic benefits transfer (EBT) cards, electronic benefits transfer (EBT) card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; **3.** Exchanging firearms, ammunition, explosives, or controlled substances, as defined in *s. 893.02*, for food assistance benefits; **4.** Purchasing with food assistance benefits a product with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with food assistance benefits in exchange for cash or consideration other than eligible food; or **5.** Intentionally purchasing products originally purchased with food assistance benefits in exchange for cash or consideration other than eligible food. **(c)** Any person who has possession of two or more electronic benefits transfer (EBT) cards issued to other persons and who sells or attempts to sell one or more of these cards commits a misdemeanor of the first degree, punishable as provided in *s. 775.082* or *s. 775.083*. A second or subsequent violation of this paragraph constitutes a felony of the third degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. **(d)** In addition to any other penalty, a person who commits a violation of paragraph (c) shall be ordered by the court to serve at least 20 hours of community service. If the court determines that the community service can be performed at a nonprofit entity that provides the community with food services for the needy, the court shall order that the community service be performed at such an entity. **(3)** Any person having duties in the administration of a state or federally funded public assistance program or in the distribution of public assistance, or authorizations or identifications to obtain public assistance, under a state or federally funded public assistance program and who: **(a)** Fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of, food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or public assistance from any other state or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position, or who knowingly fails to disclose any such fraudulent activity; or **(b)** Knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of, funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization, commits a crime and shall be punished as provided in subsection (5). **(4)** Any person who: **(a)** Knowingly files, attempts to file, or aids and abets in the filing of, a claim for services to a recipient of public assistance under any state or federally funded public assistance program for services that were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or knowingly bills the recipient of public assistance under such a program, or his or her family, for an amount in excess of that provided for by law or regulation;

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	(b) Knowingly fails to credit the state or its agent for payments received from social security, insurance, or other sources; or **(c)** In any way knowingly receives, attempts to receive, or aids and abets in the receipt of, unauthorized payment or other unauthorized public assistance or authorization or identification to obtain public assistance as provided herein, commits a crime and shall be punished as provided in subsection (5). **(5) (a)** If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of $ 200 in any 12 consecutive months, such person commits a misdemeanor of the first degree, punishable as provided in *s. 775.082* or *s. 775.083*. **(b)** If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of $ 200 or more, but less than $ 20,000 in any 12 consecutive months, such person commits a felony of the third degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. **(c)** If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of $ 20,000 or more, but less than $ 100,000 in any 12 consecutive months, such person commits a felony of the second degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. **(d)** If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of $ 100,000 or more in any 12 consecutive months, such person commits a felony of the first degree, punishable as provided in *s. 775.082*, *s. 775.083*, or *s. 775.084*. **(e)** As used in this subsection, the value of a food assistance authorization benefit is the cash or exchange value unlawfully obtained by the fraudulent act committed in violation of this section. **(f)** As used in this section, "fraud" includes the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, and the stealing of financial instruments, data, and other assets. **(6)** Any person providing service for which compensation is paid under any state or federally funded public assistance program who solicits, requests, or receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest or other means, whether directly or indirectly, from a recipient of public assistance from such public assistance program, or from the family of such a recipient, shall notify the Department of Children and Families, on a form provided by the department, of the amount of such payment or contribution and of such other information as specified by the department, within 10 days after the receipt of such payment or contribution or, if said payment or contribution is to become effective at some time in the future, within 10 days of the consummation of the agreement to make such payment or contribution. Failure to notify the department within the time prescribed is a misdemeanor of the first degree, punishable as provided in *s. 775.082* or *s. 775.083*. **(7)** Repayment of public assistance benefits or services or return of authorization or identification wrongfully obtained is not a defense to, or ground for dismissal of, criminal charges brought under this section. **(8) (a)** The introduction into evidence of a paid state warrant made to the order of the defendant is prima facie evidence that the defendant did receive public assistance from the state. **(b)** The introduction into evidence of a transaction history generated by a Personal Identification Number (PIN) establishing a purchase or withdrawal by electronic benefit transfer is prima facie evidence that the identified recipient received public assistance from the state. **(9)** All records relating to investigations of public assistance fraud in the custody of the department and the Agency for Health Care Administration are available for examination by the Department of Financial Services pursuant to *s. 414.411* and are admissible into evidence in proceedings brought under this section as business records within the meaning of *s. 90.803(6)*. **(10)** The department shall create an error-prone or fraud-prone case profile within its public assistance information system and shall screen each application for public assistance, including food assistance, Medicaid, and temporary cash assistance, against the profile to identify cases that have a potential for error or fraud. Each case so identified shall be subjected to preeligibility fraud screening. **(11) (a)** Subject to availability of funds, the department or the director of the Office of Public Benefits Integrity shall, unless the person declines the reward, pay a reward to a person who furnishes and reports original information relating to a violation of the state's public assistance fraud laws if the information and report:

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	1. Are made to the department, the Department of Financial Services, or the Department of Law Enforcement. **2.** Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person. **3.** Lead to the recovery of a fine, penalty, or forfeiture of property. **(b)** The reward may not exceed 10 percent of the amount recovered or $ 500,000, whichever is less, in a single case. **(c)** The reward shall be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to *s. 414.41*. **(d)** A person who receives a reward pursuant to this subsection is not eligible to receive funds pursuant to the Florida False Claims Act for Medicaid fraud for which the reward was received. **History:** S. 1, ch. 69-268; ss. 19, 35, ch. 69-106; s. 1, ch. 70-255; s. 354, ch. 71-136; s. 1, ch. 76-20; s. 2, *ch. 92-125*; s. 42, *ch. 96-175*; s. 218, *ch. 97-101*; s. 1037, *ch. 97-103*; s. 30, *ch. 97-173*; s. 9, *ch. 99-333*; s. 67, *ch. 2000-153*; s. 46, *ch. 2000-165*; s. 10, *ch. 2010-144*, eff. Jan. 1, 2011; s. 30, *ch. 2010-209*, eff. July 1, 2010; s. 229, *ch. 2014-19*, eff. July 1, 2014; s. 1, *ch. 2014-119*, eff. Oct. 1, 2014; s. 1, *ch. 2016-185*, eff. Oct. 1, 2016.
	Qui Tam Actions & Remedies **Fla. Stat. § 68.083. Civil actions for false claims** http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.083.html (1) The department may diligently investigate a violation under *s. 68.082*. If the department finds that a person has violated or is violating *s. 68.082*, the department may bring a civil action under the Florida False Claims Act against the person. The Department of Financial Services may bring a civil action under this section if the action arises from an investigation by that department and the Department of Legal Affairs has not filed an action under this act. (2) **A person may bring a civil action for a violation of *s. 68.082*** for the person and for the affected agency. Civil actions instituted under this act shall be governed by the Florida Rules of Civil Procedure and shall be brought in the name of the State of Florida. Prior to the court unsealing the complaint under subsection (3), the action may be voluntarily dismissed by the person bringing the action only if the department gives written consent to the dismissal and its reasons for such consent. (3) The complaint shall be identified on its face as a qui tam action and shall be filed in the circuit court of the Second Judicial Circuit, in and for Leon County. Immediately upon the filing of the complaint, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General, as head of the department, and on the Chief Financial Officer, as head of the Department of Financial Services, by registered mail, return receipt requested. The department, or the Department of Financial Services under the circumstances specified in subsection (4), may elect to intervene and proceed with the action, on behalf of the state, within 60 days after it receives both the complaint and the material evidence and information. (4) If a person brings an action under subsection (2) and the action is based upon the facts underlying a pending investigation by the Department of Financial Services, the Department of Financial Services, instead of the department, may take over the action on behalf of the state. In order to take over the action, the Department of Financial Services must give the department written notification within 20 days after the action is filed that the Department of Financial Services is conducting an investigation of the facts of the action and that the Department of Financial Services, instead of the department, will take over the action filed under subsection (2). If the Department of Financial Services takes over the action under this subsection, the word "department" as used in this act means the Department of Financial Services, and that department, for purposes of that action, shall have all rights and standing granted the department under this act. (5) The department may, for good cause shown, request the court to extend the time during which the complaint remains under seal under subsection (2). Any such motion may be supported by affidavits or other submissions in camera. The defendant is not required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant in accordance with law. (6) Before the expiration of the 60-day period or any extensions obtained under subsection (5), the department shall: (a) Proceed with the action, in which case the action is conducted by the department on behalf of the state; or

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	(b) Notify the court that it declines to take over the action, in which case the person bringing the action has the right to conduct the action. (7) When a person files an action under this section, no person other than the department may intervene or bring a related action based on the facts underlying the pending action. (8) (a) Except as otherwise provided in this subsection, the complaint and information held by the department pursuant to an investigation of a violation of *s. 68.082* is confidential and exempt from *s. 119.07(1)* and *s. 24(a), Art. I of the State Constitution.* (b) Information made confidential and exempt under paragraph (a) may be disclosed by the department to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities. (c) Information made confidential and exempt under paragraph (a) is no longer confidential and exempt once the investigation is completed, unless the information is otherwise protected by law. (d) For purposes of this subsection, an investigation is considered complete: 1. Under subsection (1) once the department either files its own action or closes its investigation without filing an action. 2. Under subsection (2) upon the unsealing of the qui tam action or its voluntary dismissal prior to any unsealing. **History:** S. 3, *ch. 94-316*; s. 103, *ch. 2003-261*; s. 3, *ch. 2007-236*, eff. July 1, 2007; s. 3, *ch. 2013-104*, eff. July 1, 2013; s. 1, *ch. 2013-105*, eff. July 1, 2013. *Laws 2018, c. 2018-75, § 1, eff. Oct. 1, 2018*. **68.085 Awards to plaintiffs bringing action.—** http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.085.html (1) (a) If the department proceeds with an action brought by a person under this act, subject to the requirements of paragraph (b), the person shall receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. (b) If the court finds the action to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; a legislative, administrative, inspector general, or auditor general report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. (c) Any payment to a person under paragraph (a) or paragraph (b) shall be made from the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (2) If the department does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (3) Following any distributions under subsection (1) or subsection (2), the state entity injured by the submission of a false or fraudulent claim shall be awarded an amount not to exceed its compensatory damages. If the action was based on a claim of funds from the state Medicaid program, 10 percent of any remaining proceeds shall be deposited into the Operating Trust Fund to fund rewards for persons who report and provide information relating to Medicaid fraud pursuant to *s. 409.9203*. Any remaining proceeds, including civil penalties awarded under *s. 68.082*, shall be deposited in the General Revenue Fund. (4) Regardless of whether the department proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of *s. 68.082* upon which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the person would otherwise receive under this section, taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of *s. 68.082*, the person shall be

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	dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the department to continue the action. **History:** S. 5, *ch. 94-316*; s. 11, *ch. 95-153*; s. 5, *ch. 2007-236*, eff. July 1, 2007; s. 2, *ch. 2009-223*, eff. July 1, 2009; s. 22, *ch. 2010-162*, eff. July 1, 2010; s. 6, *ch. 2013-104*, eff. July 1, 2013. **Fla. Stat. § 68.086. Expenses; attorney's fees and costs** **http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.086.html** (1) If the department initiates an action under this act or assumes control of an action brought by a person under this act, the department shall be awarded its reasonable attorney fees, expenses, and costs. (2) If the department does not proceed with an action under this act and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. (3) No liability shall be incurred by the state or the department for any expenses, attorney fees, or other costs incurred by any person in bringing or defending an action under this act. **History:** S. 6, *ch. 94-316*; s. 2, *ch. 2009-193*, eff. June 16, 2009; s. 3, *ch. 2009-223*, eff. July 1, 2009; s. 7, *ch. 2013-104*, eff. July 1, 2013. **Fla. Stat. § 409.9203 - Rewards for reporting Medicaid fraud** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0409/Sections/0409.9203.html* **(1)** The Department of Law Enforcement or director of the Medicaid Fraud Control Unit shall, subject to availability of funds, pay a reward to a person who furnishes original information relating to and reports a violation of the state's Medicaid fraud laws, unless the person declines the reward, if the information and report: **(a)** Is made to the Office of the Attorney General, the Agency for Health Care Administration, the Department of Health, or the Department of Law Enforcement; **(b)** Relates to criminal fraud upon Medicaid funds or a criminal violation of Medicaid laws by another person; and **(c)** Leads to a recovery of a fine, penalty, or forfeiture of property. **(2)** The reward may not exceed the lesser of 25 percent of the amount recovered or $ 500,000 in a single case. **(3)** The reward shall be paid from the Operating Trust Fund from moneys collected pursuant to *s. 68.085*. **(4)** A person who receives a reward pursuant to this section is not eligible to receive any funds pursuant to the Florida False Claims Act for Medicaid fraud for which a reward is received pursuant to this section. **(5)** Notwithstanding *s. 68.085(3)*, the 10 percent of any remaining proceeds deposited into the Operating Trust Fund from an action based on a claim of funds from the state Medicaid program shall be allocated in the following manner: **(a)** Fifty percent of such moneys shall be used to fund rewards for reporting Medicaid fraud pursuant to this section. **(b)** The remaining 50 percent of such moneys shall be used by the Medicaid Fraud Control Unit to fund its investigations of potential violations of *s. 68.082* and any related civil actions. **History:** S. 20, *ch. 2009-223*, eff. July 1, 2009; s. 2, *ch. 2013-207*, eff. July 1, 2013; s. 3, *ch. 2015-92*, eff. July 1, 2015. **Fla. Stat. § 626.9892 - Anti-Fraud Reward Program; reporting of insurance fraud** *http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0626/Sections/0626.9892.html*

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	Anti-Fraud Reward Program; reporting of insurance fraud. ***Currentness*** **(**1) The Anti-Fraud Reward Program is hereby established within the department, to be funded from the Insurance Regulatory Trust Fund. (2) The department may pay rewards of up to $25,000 to persons providing information leading to the arrest of persons committing crimes investigated by the department arising from violations of *s. 400.9935*, *s. 440.105*, *s. 624.15*, *s. 626.112*, *s. 626.8473*, *s. 626.8738*, *s. 626.9541*, *s. 626.989*, *s. 790.164*, *s. 790.165*, *s. 790.166*, *s. 806.01*, *s. 806.031*, *s. 806.10*, *s. 806.111*, *s. 812.014*, *s. 817.034*, *s. 817.233*, *s. 817.234*, *s. 817.236*, *s. 817.2361*, *s. 817.505*, *s. 817.568*, *s. 831.01*, *s. 895.03*, *s. 895.04*, or *s. 896.101*. (3) Only a single reward amount may be paid by the department for claims arising out of the same transaction or occurrence, regardless of the number of persons arrested and convicted and the number of persons submitting claims for the reward. The reward may be disbursed among more than one person in amounts determined by the department. (4) The department shall adopt rules which set forth the application and approval process, including the criteria against which claims shall be evaluated, the basis for determining specific reward amounts, and the manner in which rewards shall be disbursed. Applications for rewards authorized by this section must be made pursuant to rules established by the department. (5) Determinations by the department to grant or deny a reward under this section shall not be considered agency action subject to review under *s. 120.569* or *s. 120.57*. **Credits** **Added by *Laws 1999, c. 99-204, § 3, eff. Oct. 1, 1999*. Amended by *Laws 2002, c. 2002-236, § 19, eff. July 1, 2002*; *Laws 2003, c. 2003-261, § 1042, eff. June 26, 2003*; *Laws 2016, c. 2016-132, § 17, eff. July 1, 2016*; *Laws 2016, c. 2016-165, § 17, eff. July 1, 2016*; *Laws 2018, c. 2018-102, § 38, eff. July 1, 2018*; *Laws 2023, c. 2023-144, § 31, eff. May 25, 2023*.**
	Whistle-blower Protections **Fla. Stat.§ 68.088. Protection for participating employees** http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.088.html Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this act, including investigation for initiation of, testimony for, or assistance in an action filed or to be filed under this act, shall have a cause of action under s. 112.3187. **History:** S. 8, *ch. 94-316*.
Georgia/ State False Medicaid Claims Act 49-4-168 O.C.G.A. § 49-4-168 et seq. O.C.G.A. § 49-4-140 et seq. O.C.G.A. § 23-3-120 et seq.	**Criminal and Civil Penalties for False Claims and Statements** Other Helpful Information About Medicaid Fraud & Reporting Fraud *https://dch.georgia.gov/office-inspector-general* *https://dch.georgia.gov/office-inspector-general/georgia-oig-exclusions-list* *https://dch.georgia.gov/contacts/report-fraud-waste-and-abuse* *https://dch.georgia.gov/office-inspector-general/report-medicaidpeachcare-kids-fraud* O.C.G.A. TITLE 49 Chapter 4 Article 7B "This Act shall be known and may be cited as the 'State False Medicaid Claims Act.'" **O.C.G.A. § 49-4-168 - Definitions** As used in this article, the term: (1) "Claim" includes any request or demand, whether under a contract or otherwise, for money or property, whether or not the Georgia Medicaid program or this state has title to such money or property, which is made to the Georgia Medicaid program, to any officer, employee, fiscal intermediary, grantee, agent, or contractor of the Georgia Medicaid program, or to other persons or entities if it results in payments by the Georgia Medicaid program, if the Georgia Medicaid program provides, has provided, or will provide any portion of the money or property requested or demanded; if the Georgia Medicaid program will reimburse the contractor,

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	grantee, or other recipient for any portion of the money or property requested or demanded; or if the money or property is to be spent or used on behalf of or to advance the Georgia Medicaid program. A claim includes a request or demand made orally, in writing, electronically, or magnetically. Each claim may be treated as a separate claim. (2) "Knowing" and "knowingly" require no proof of specific intent to defraud and mean that a person, with respect to information: (A) Has actual knowledge of the information; (B) Acts in deliberate ignorance of the truth or falsity of the information; or (C) Acts in reckless disregard of the truth or falsity of the information. (3) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. (4) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee based or similar relationship, from statute or regulation, or from retention of any overpayment. (5) "Person" means any natural person, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity with capacity to sue or be sued. **HISTORY:** Code 1981, *§ 49-4-168*, enacted by Ga. L. 2007, p. 355, § 3/HB 551; Ga. L. 2012, p. 127, § 2-1/HB 822; Ga. L. 2013, p. 141, § 49/HB 79. **O.C.G.A. §49-4-168.1. - Civil penalties for false or fraudulent Medicaid claims** **(a)** Any person who: **(1)** Knowingly presents or causes to be presented to the Georgia Medicaid program a false or fraudulent claim for payment or approval; **(2)** Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim; **(3)** Conspires to commit a violation of paragraph (1), (2), (4), (5), (6), or (7) of this subsection; **(4)** Has possession, custody, or control of property or money used or to be used by the Georgia Medicaid program and knowingly delivers, or causes to be delivered, less than all of such property or money; **(5)** Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program, makes or delivers the receipt without completely knowing that the information on the receipt is true; **(6)** Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Georgia Medicaid program who lawfully may not sell or pledge the property; or **(7)** Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit property or money to the Georgia Medicaid program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit property or money to the Georgia Medicaid program, shall be liable to the State of Georgia for a civil penalty consistent with the civil penalties provision of the federal False Claims Act, *31 U.S.C. 3729(a)*, as adjusted by the federal Civil Penalties Inflation Adjustment Act of 1990 (*28 U.S.C. 2461*; Public Law 101-410), and as further amended by the federal Civil Penalties Inflation Adjustment Improvements Act of 2015 (Sec. 701 of Public Law 114-74), plus three times the amount of damages which the Georgia Medicaid program sustains because of the act of such person. **(b)** The provisions of subsection (a) of this Code section notwithstanding, if the court finds that: **(1)** The person committing the violation of this subsection furnished officials of the Georgia Medicaid program with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information; **(2)** Such person fully cooperated with any government investigation of such violation; and **(3)** At the time such person furnished the Georgia Medicaid program with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this article with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not more than two times the amount of the actual damages which the Georgia Medicaid program sustained because of the act of such person. **(c)** A person violating any provision of subsection (a) of this Code section shall also be liable to this state for all costs of any civil action brought to recover the damages and penalties provided under this article. **(d)** As used in this Code section, the term "Georgia Medicaid program" includes any contractor, subcontractor, or agent for the Georgia Medicaid program, including, but not limited to, a managed care program operated, funded, or reimbursed by the Georgia Medicaid program. History: Code 1981, *§ 49-4-168.1*, enacted by *Ga. L. 2007, p. 355, § 3/HB 551*; *Ga. L. 2009, p. 8, § 49/SB 46*; *Ga. L. 2012, p. 127, § 2-1/HB 822*; *Ga. L. 2014, p. 77, § 1/HB 973*; *Ga. L. 2018, p. 240, § 1/SB 321*.

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	TITLE 23. EQUITY CHAPTER 3. EQUITABLE REMEDIES AND PROCEEDINGS GENERALLY ARTICLE 6. TAXPAYER PROTECTION AGAINST FALSE CLAIMS **O.C.G.A. § 23-3-120 - Definitions** As used in this article, the term: (1) "Claim" means any request or demand, whether under a contract or otherwise, for money or property, and whether or not this state or a local government has title to such money or property that is: (A) Presented to an officer, employee, or agent of the state or local government; (B) Made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's or local government's behalf or to advance a state or local government program or interest, and if the state or local government: (i) Provides or has provided any portion of the money or property requested or demanded; or (ii) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded. Such term shall not include requests or demands for money or property that the state or local government has paid to an individual as compensation for state or local government employment or as an income subsidy with no restrictions on that individual's use of the money or property. (2) "Knowing" and "knowingly" mean that a person, with respect to information: (A) Has actual knowledge of the information; (B) Acts in deliberate ignorance of the truth or falsity of the information; or (C) Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required. (3) "Local government" means any Georgia county, municipal corporation, consolidated government, authority, board of education or other local public board, body, or commission, town, school district, board of cooperative educational services, local public benefit corporation, hospital authority, taxing authority, or other political subdivision of the state or of such local government, including the Metropolitan Atlanta Rapid Transit Authority. (4) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. (5) "Obligation" means an established duty, whether fixed or not, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee based or similar relationship, from law or regulation, or from the retention of any overpayment. (6) "State" means the State of Georgia and any state department, board, bureau, division, commission, committee, public benefit corporation, public authority, council, office, or other governmental entity performing a governmental or proprietary function for this state. **HISTORY:** Code 1981, *§ 23-3-120*, enacted by *Ga. L. 2012, p. 127, § 1-2/HB 822*; *Ga. L. 2013, p. 141, § 23/HB 79*.

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	O.C.G.A. § 23-3-121 - Submission of false information; liability; no application to taxation (a) Any person, firm, corporation, or other legal entity that: (1) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval; (2) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim; (3) Conspires to commit a violation of paragraph (1), (2), (4), (5), (6), or (7) of this subsection; (4) Has possession, custody, or control of property or money used, or to be used, by the state or local government and knowingly delivers, or causes to be delivered, less than all of that money or property; (5) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the state or local government and, intending to defraud the state or local government, makes or delivers the receipt without completely knowing that the information on the receipt is true; (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or local government who lawfully may not sell or pledge the property; or (7) Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or local government, or knowingly conceals, knowingly and improperly avoids, or decreases an obligation to pay or transmit money or property to the state or a local government shall be liable to the State of Georgia for a civil penalty of not less than $5,500.00 and not more than $11,000.00 for each false or fraudulent claim, plus three times the amount of damages which the state or local government sustains because of the act of such person. (b) The provisions of subsection (a) of this Code section notwithstanding, if the court finds that: (1) The person committing the violation of this subsection furnished officials of the state or local government responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information; (2) Such person fully cooperated with any government investigation of such violation; and (3) At the time such person furnished the state or local government with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this article with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not more than two times the amount of the actual damages which the state or local government sustained because of the act of such person. (c) A person violating any provision of this Code section shall also be liable to the state or local government for all costs, reasonable expenses, and reasonable attorney's fees incurred by the state or local government in prosecuting a civil action brought to recover the damages and penalties provided under this article. (d) Any information furnished pursuant to paragraph (2) of subsection (b) of this Code section shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50. (e) This Code section shall not apply to claims, records, or statements made concerning taxes under the revenue laws of this state. **HISTORY:** Code 1981, *§ 23-3-121*, enacted by *Ga. L. 2012, p. 127, § 1-2/HB 822*.

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	O.C.G.A. § 23-3-125 - Civil investigative demands (a) As used in this Code section, the term: (1) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General under paragraph (1) of subsection (j) of this Code section. (2) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document or data compilations stored in or accessible through computer or other information retrieval system, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery. (3) "False claims law" means: (A) This article; and (B) Any Act of Congress or of the legislature which prohibits or makes available to the federal government, state, or any local government in any court of this state, of another state or the District of Columbia, or of local government or of the United States any civil remedy with respect to any false claim against, bribery of, or corruption of any officer or employee of any state, the District of Columbia, local government, or the United States. (4) "False claims law investigation" means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law. (5) "False claims law investigator" means any attorney or investigator employed by the Department of Law or any other agency of the federal government, state, or any local government who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the state or local government or the United States acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation. (6) "Official use" means any use that is consistent with the law and the regulations and policies of the Department of Law or any other agency of the federal government, state, or any local government participating in any of the matters in question, including use in connection with internal memoranda, and reports; communications between the Attorney General or any other agency of the federal government, state, or any local government participating in the matters in question and any other agency of the federal government, state, or any local government, or a contractor of an agency of the federal government, state, or any local government, undertaken in furtherance of a federal, state, or local government or other governmental investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda, and briefs submitted to a court or other tribunal; and communications with federal, state, or local government or other governmental investigators, auditors, consultants and experts, the counsel of other parties, arbitrators, and mediators, concerning an investigation, case, or proceeding. (7) "Person" means any natural person, partnership, corporation, association, or other legal entity, including any state or local government or political subdivision of a state. (8) "Product of discovery" includes: (A) The original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature; (B) Any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A) of this paragraph; and (C) Any index or other manner of access to any item listed in subparagraph (A) of this paragraph. (b)(1) For purposes of this Code section, whenever the Attorney General, or his or her designee, has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General, or his or her designee, may, before commencing a civil proceeding under subsection (a) of *Code Section 23-3-122* or other false claims law, or making an election under subsection (b) of *Code Section 23-3-122*, issue in writing and cause to be served upon such person a civil investigative demand requiring such person to: (A) Produce such documentary material for inspection and copying; (B) Answer in writing written interrogatories with respect to such documentary material or information; (C) Give oral testimony concerning such documentary material or information; or (D) Furnish any combination of such documentary material, answers, or testimony. The Attorney General may delegate the authority to issue civil investigative demands under this subsection, including to a district attorney or other local government attorney. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the deputy attorney general, or an assistant attorney general shall cause to be served, in any manner authorized by this Code section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the Attorney General or a designee of the Attorney General under this Code section may be shared with any qui tam relator if the Attorney General or such designee determines it is necessary as part of any false claims law investigation. (2)(A) Each civil investigative demand issued under paragraph (1) of this subsection shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation and the applicable provision of law alleged to have been violated. (B) If such demand is for the production of documentary material, the demand shall: (i) Describe each class of documentary material to be produced with such definiteness and certainty as to permit such documentary material to be fairly identified; (ii) Prescribe a return date for each such class which will provide a reasonable period of time within which the documentary material so demanded may be assembled and made available for inspection and copying; and

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	(iii) Identify the false claims law investigator to whom such documentary material shall be made available. (C) If such demand is for answers to written interrogatories, the demand shall: (i) Set forth with specificity the written interrogatories to be answered; (ii) Prescribe dates at which time the answers to such written interrogatories shall be submitted; and (iii) Identify the false claims law investigator to whom such answers shall be submitted. (D) If such demand is for the giving of oral testimony, the demand shall: (i) Prescribe a date, time, and place at which the oral testimony shall be commenced; (ii) Identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted; (iii) Specify that such attendance and testimony are necessary to the conduct of the investigation; (iv) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and (v) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand. (E) Any civil investigative demand issued under this Code section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the product of discovery was obtained. (F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this Code section shall be a date which is not less than seven days after the date on which such demand is received, unless the Attorney General or his or her designee determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time. (G) The Attorney General or his or her designee shall not authorize the issuance under this Code section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. (c)(1) A civil investigative demand issued under subsection (b) of this Code section shall not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such documentary material, answers, or testimony would be protected from disclosure under: (A) Standards applicable to subpoenas or subpoenas duces tecum issued by a court of the state or of the United States to aid in a grand jury investigation; or (B) Standards applicable to discovery requests under Chapter 11 of Title 9, the "Georgia Civil Practice Act," to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Code section. (2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this Code section, preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand shall not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials. (d)(1) Any civil investigative demand issued under subsection (b) of this Code section may be served in this state by a false claims law investigator or by a sheriff, deputy sheriff, marshal, or deputy marshal at any place within the territorial jurisdiction of any court of this state. (2) Any such demand or any petition filed under subsection (k) of this Code section may be served upon any person who is not found within the territorial jurisdiction of any court of this state in such manner as applicable law prescribes for service outside this state. To the extent that the courts of this state can assert jurisdiction over any such person consistent with due process, any such court shall have the same jurisdiction to take any action respecting compliance with this Code section by any such person that such court would have if such person were personally within the jurisdiction of such court. Compliance with this Code section may also be enforced in courts of other states, of the District of Columbia, and of the United States. (e)(1) Service of any civil investigative demand issued under subsection (b) of this Code section or of any petition filed under subsection (k) of this Code section may be made upon a partnership, corporation, association, or other legal entity by: (A) Delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity; (B) Delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or (C) Depositing an executed copy of such demand or petition via the United States Postal Service by registered or certified mail or statutory overnight delivery, return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business. (2) Service of any such demand or petition may be made upon any natural person by: (A) Delivering an executed copy of such demand or petition to the person; or (B) Depositing an executed copy of such demand or petition via the United States Postal Service by registered or certified mail or statutory overnight delivery, return receipt requested, addressed to the person at the person's residence or principal office or place of business. (f) A verified return by the individual serving any civil investigative demand issued under subsection (b) of this Code section or any petition filed under subsection (k) of this Code section setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail or statutory overnight delivery, such return shall be accompanied by the return post office receipt or other receipt of delivery of such demand.

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	(g)(1) The production of documentary material in response to a civil investigative demand served under this Code section shall be made under a sworn certificate, in such form as the demand designates, by: (A) In the case of a natural person, the person to whom the demand is directed; or (B) In the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand. (2) Any person upon whom any civil investigative demand for the production of documentary material has been served under this Code section shall make such documentary material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under paragraph (1) of subsection (k) of this Code section. Such documentary material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such documentary material. (h) Each interrogatory in a civil investigative demand served under this Code section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by: (1) In the case of a natural person, the person to whom the demand is directed; or (2) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory. If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished. (i)(1) The examination of any person pursuant to a civil investigative demand for oral testimony served under this Code section shall be taken before an officer authorized to administer oaths and affirmations by the laws of this state, or of the United States, or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by and in a manner consistent with Chapter 11 of Title 9, the "Georgia Civil Practice Act." (2) The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the state or local government, any person who may be agreed upon by the attorney for the state or local government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony. (3) The oral testimony of any person taken pursuant to a civil investigative demand served under this Code section shall be taken in the county within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person. (4) When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence, or the refusal to sign of the witness, together with the reasons, if any, given therefor. (5) The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian. (6) Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General or his or her designee may, for good cause, limit such witness to inspection of the official transcript of the witness's testimony. (7)(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (b) of this Code section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and shall not, directly or through counsel, otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the superior court under paragraph (1) of subsection (k) of this Code section for an order compelling such person to answer such question. (B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of Title 24. (8) Any person appearing for oral testimony under a civil investigative demand issued under subsection (b) of this Code section shall be entitled to the same fees and allowances which are paid to witnesses in the superior courts and state courts of Georgia.

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	(j)(1) The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this Code section and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian. (2)(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this Code section shall transmit them to the custodian. The custodian shall take physical possession of such documentary material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4) of this subsection. (B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator or other officer or employee of the Attorney General or any other agency of the state or local government participating in an investigation of the matters in question. Such documentary material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this Code section. (C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or other officer or employee of the Attorney General or any other agency of the federal government or of a state or local government participating in an investigation of the matters in question authorized under subparagraph (B) of this paragraph. The prohibition in the preceding sentence on the availability of documentary material, answers, or transcripts shall not apply if consent is given by the person who produced such documentary material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such documentary material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the General Assembly, including any committee or subcommittee of the General Assembly, or to any other agency of the state or local government or the United States for use by such agency in furtherance of its statutory responsibilities. (D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe: (i) Documentary material and answers to interrogatories shall be available for examination by the person who produced such documentary material or answers, or by a representative of that person authorized by that person to examine such documentary material and answers; and (ii) Transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts. (3) Whenever the Attorney General, an attorney for a local government, or an attorney for any agency of a local government participating in an investigation of the matter in question has been designated to appear before any court, grand jury, or state or local government or federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this Code section may deliver to such attorney such documentary material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such documentary material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding. (4) If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this Code section, and: (A) Any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any state or local government or federal agency involving such documentary material, has been completed; or (B) No case or proceeding in which such documentary material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such documentary material, return to such person any such documentary material, other than copies furnished to the false claims law investigator under paragraph (2) of subsection (g) of this Code section or made for the state under subparagraph (B) of paragraph (2) of this subsection, which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding. (5) In the event of the death, disability, or separation from service of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this Code section, or in the event of the official relief of such custodian from responsibility for the custody and control of such documentary material, answers, or transcripts, the Attorney General or his or her designee shall promptly: (A) Designate another false claims law investigator to serve as custodian of such documentary material, answers, or transcripts; and (B) Transmit in writing to the person who produced such documentary material, answers, or testimony notice of the identity and address of the successor so designated. Any person who is designated to be a successor under this paragraph shall have, with regard to such documentary material, answers, or transcripts, the same duties and responsibilities as were imposed by this Code section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation. (k)(1) Whenever any person fails to comply with any civil investigative demand issued under subsection (b) of this Code section, or whenever satisfactory copying or reproduction of any documentary material requested in such demand cannot be done and such person refuses to surrender such documentary material, the Attorney General or local government may file in any county or district in which such person resides, is found, or transacts business and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand. (2)(A) Any person who has received a civil investigative demand issued under subsection (b) of this Code section may file in the appropriate court and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the superior court for any county in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph shall be filed: (i) Within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or (ii) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

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	(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A) of this paragraph and may be based upon any failure of the demand to comply with the provisions of this Code section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside. (3)(A) In the case of any civil investigative demand issued under subsection (b) of this Code section which is an express demand for any product of discovery, the person from whom such discovery was obtained may file in the superior court for the county in which the proceeding in which such discovery was obtained is or was last pending and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph shall be filed: (i) Within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or (ii) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand. (B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A) of this paragraph and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this Code section or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand. (4) At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced by, or transcripts of oral testimony given by, any person in compliance with any civil investigative demand issued under subsection (b) of this Code section, such person and, in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file in the superior court for any county within which the office of such custodian is situated and serve upon such custodian a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this Code section. (5) Whenever any petition is filed under this subsection in any superior court for any county, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry out the provisions of this Code section. Any final order so entered shall be subject to appeal. Any disobedience of any final order entered under this Code section by any court shall be punished as a contempt of the court. (6) Chapter 11 of Title 9, the "Georgia Civil Practice Act," shall apply to any petition filed in this state under this subsection, to the extent that such rules are not inconsistent with the provisions of this Code section. (l) Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (b) of this Code section shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50. **Credits** *Laws 2012, Act 591, § 1-2, eff. July 1, 2012*; *Laws 2014, Act 669, § 23, eff. April 29, 2014*; *Laws 2016, Act 625, § 23, eff. May 3, 2016*. **O.C.G.A. § 23-3-126 - Remedies nonexclusive; construction of provisions** (a) The provisions of this article shall not be deemed exclusive, and the remedies provided for in this article shall be in addition to any other remedies provided for in any other law or available under common law. (b) This article shall be broadly construed and applied to promote the public's interest in combating fraud and false claims directed at the public's funds. **HISTORY:** Code 1981, *§ 23-3-126*, enacted by *Ga. L. 2012, p. 127, § 1-2/HB 822*. **O.C.G.A. § 23-3-127 - Proceedings involving Medicaid** If a civil action can be commenced pursuant to Article 7B of Chapter 4 of Title 49, the "State False Medicaid Claims Act," the claimant shall proceed under Article 7B of Chapter 4 of Title 49. **HISTORY:** Code 1981, *§ 23-3-127*, enacted by *Ga. L. 2012, p. 127, § 1-2/HB 822*. O.C.G.A. § 49-4-140 - Short title The short title for this article shall be the **"Georgia Medical Assistance Act of 1977."** **§ 49-4-141. Definitions** (1) "Applicant for medical assistance" means a person who has made application for certification as being eligible, generally, to have medical assistance paid in his or her behalf pursuant to the state plan and whose

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	application has not been acted upon favorably. (2) "Board" means the Board of Community Health established under Chapter 2 of Title 31. (3) "Commissioner" means the commissioner of the department. (4) "Department" means the Department of Community Health established under Chapter 2 of Title 31. (5) "Medical assistance" means payment to a provider of a part or all of the cost of certain items of medical or remedial care or service rendered by the provider to a recipient of medical assistance, provided such items are rendered and received in accordance with such provisions of Title XIX of the federal Social Security Act of 1935, as amended, regulations promulgated pursuant thereto by the secretary of health and human services, all applicable laws of this state, the state plan, and regulations of the department which are in effect on the date on which the items are rendered. (6) "Provider of medical assistance" means a person or institution, public or private, which possesses all licenses, permits, certificates, approvals, registrations, charters, and other forms of permission issued by entities other than the department, which forms of permission are required by law either to render care or to receive medical assistance in which federal financial participation is available and which meets the further requirements for participation prescribed by the department and which is enrolled, in the manner and according to the terms prescribed by the department, to participate in the state plan. (7) "Recipient of medical assistance" means a person who has been certified eligible, pursuant to the state plan, to have medical assistance paid in his or her behalf. (8) "State plan" means all documentation submitted by the commissioner in behalf of the department to and for approval by the secretary of health and human services, pursuant to Title XIX of the federal Social Security Act, as amended (Act of July 30, 1965, P.L. 89-97, Stat. 343, as amended). (9) "Third party" means an individual, institution, corporation, or public or private agency, other than the department, that is legally liable to pay all or any part of the medical costs incurred by a recipient of medical assistance on account of any sickness, injury, disease, or disability to such a recipient. **HISTORY:** Ga. L. 1977, p. 384, § 3; Ga. L. 1979, p. 1293, § 1; Ga. L. 1994, p. 97, § 49; Ga. L. 1999, p. 296, § 17; *Ga. L. 2009, p. 453, § 1-7/HB 228*. **Ga. Code Ann., § 49-4-146.1** **§ 49-4-146.1. Unlawful to obtain benefits and payments under certain circumstances; penalties; procedures** (a) As used in this Code section, the term: (1) "Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider. (2) "Convicted" means that a judgment of conviction has been entered by any federal, state, or other court, regardless of whether an appeal from that judgment is pending. (3) "Indirect ownership interest" means any ownership interest in an entity that has an ownership interest in the provider entity. The term includes an ownership interest in any entity that has an indirect ownership interest in the provider entity. (4) "Managing employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of the institution, organization, or agency. (5) "Payment" includes a payment or approval for payment, any portion of which is paid by the Georgia Medicaid program, or by a contractor, subcontractor, or agent for the Georgia Medicaid program pursuant to a managed care program operated, funded, or reimbursed by the Georgia Medicaid program. (5.1) "Peace officer" shall have the same meaning as provided for in subparagraph (A) of paragraph (8) of *Code Section 35-8-2*. (6) "Person" means any person, firm, corporation, partnership, or other entity. (7) "Person with an ownership or control interest" means a person who: (A) Has ownership interest totaling 5 percent or more in a provider; (B) Has an indirect ownership interest equal to 5 percent or more in a provider; (C) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a provider;

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	(D) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the provider entity if that interest equals at least 5 percent of the value of the property or assets of the provider; (E) Is an officer or director of a provider that is organized as a corporation; or (F) Is a partner in a provider entity that is organized as a partnership. (8) "Provider" means an actual or prospective provider of medical assistance under this chapter. The term "provider" shall also include any managed care organization providing services pursuant to a managed care program operated, funded, or reimbursed by the Georgia Medicaid program. (b) It shall be unlawful: (1) For any person or provider to obtain, attempt to obtain, or retain for himself, herself, or any other person any medical assistance or other benefits or payments under this article, or under a managed care program operated, funded, or reimbursed by the Georgia Medicaid program, to which the person or provider is not entitled, or in an amount greater than that to which the person or provider is entitled, when the assistance, benefit, or payment is obtained, attempted to be obtained, or retained, by: (A) Knowingly and willfully making a false statement or false representation; (B) Deliberate concealment of any material fact; or (C) Any fraudulent scheme or device; or (2) For any person or provider knowingly and willfully to accept medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled or knowingly and willfully to falsify any report or document required under this article. (c) Any person violating paragraph (1) or (2) of subsection (b) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished for each offense by a fine of not more than $10,000.00, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment. In any prosecution under this Code section, the state has the burden of proving beyond a reasonable doubt that the defendant intentionally committed the acts for which he or she is charged. (c.1)(1) Any person committing abuse shall be liable for a civil monetary penalty equal to two times the amount of any excess benefit or payment. This penalty shall be collected on the same terms as a penalty imposed pursuant to subsection (d) of this Code section, except as to the amount specified in items (1) and (2) of that subsection, but shall not be imposed cumulatively with a penalty under such subsection. (2) Abuse is defined as a provider knowingly obtaining or attempting to obtain medical assistance or other benefits or payments under this article to which the provider knows he or she is not entitled when the assistance, benefits, or payments are greater than an amount which would be paid in accordance with those provisions of the department's policies and procedures manual which are adopted pursuant to public notice, and the assistance, benefits, or payments directly or indirectly result in unnecessary costs to the medical assistance program. Isolated instances of unintentional errors in billing, coding, and costs reports shall not constitute abuse. Miscoding shall not constitute abuse if there is a good faith basis that the codes used were appropriate under the department's policies and procedures manual and there was no deceptive intent on the part of the provider. (d) In addition to any other penalties provided by law, each person violating subsection (b) of this Code section shall be liable to a civil penalty equal to the greater of (1) three times the amount of any such excess benefit or payment or (2) $1,000.00 for each excessive claim for assistance, benefit, or payment. Additionally, interest on the penalty shall be paid at the rate of 12 percent per annum from the date of payment of any such excessive amount, or from the date of receipt of any claim for an excessive amount when no payment has been made, until the date of payment of such penalty to the department. (e)(1) Whenever the commissioner proposes to recover an amount provided for in subsection (d) of this Code section, he shall give 30 days' written notice of his intended actions. The notice shall inform the person in violation of subsection (b) of this Code section of his right to a hearing, the method by which he may obtain a hearing, and that he may be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or that he may represent himself. (2) All hearings held by virtue of this subsection shall be conducted in the same manner as any other contested case within the department and shall be subject to the rules and regulations regarding hearings within the department. As in all contested cases within the department, the person against whom the commissioner is proceeding under this subsection shall have the right to appeal any adverse administrative decision to the superior court of the county of his residence or to the Superior Court of Fulton County once he exhausts all administrative remedies within the department. (3) If the person against whom the commissioner is proceeding under this subsection fails to request a hearing or fails to exhaust all administrative remedies within the department, then his case shall be treated as an unappealed administrative decision. In any unappealed administrative decision where the aggrieved party fails to request a hearing or fails to exhaust all administrative remedies, the commissioner shall issue an order to the person against whom the commissioner is proceeding, directing payment of any amount found to be due pursuant to subsection (d) of this Code section within ten days after service of the order. Upon failure to comply with the commissioner's order, the commissioner may issue a certificate to the clerk of the superior court of the county of residence of the person who is the subject of the order. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon, the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, that the debt is owed to the state, a designation of the statute under which such amount is found to be due, the amount due, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the superior court. Such entry on the docket by the commissioner shall be without prejudice to the right of the aggrieved party to contest such entry by affidavit of illegality or as otherwise provided by law. (f) The department may refuse to accept a statement of participation, deny a request for reinstatement, refuse to exercise its option to renew a statement of participation, suspend or withhold those payments arising from fraud or willful misrepresentation under the Medicaid program, or terminate the participation of any provider other than a natural person if that provider or any person with an ownership or control interest or any agent or managing employee of such provider has been: (1) Convicted of violating paragraph (1) or (2) of subsection (b) of this Code section; (2) Convicted of committing any other criminal offense related to any program administered under Title XVIII, XIX, or XX of the Social Security Act of 1935,*1* as amended; or

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	(3) Excluded or suspended from participation in the medicare program for fraud or abuse. In making a decision pursuant to this subsection, the department shall consider the facts and circumstances of the specific case, including but not limited to the nature and severity of the crime or violation and the extent to which it adversely affected medical assistance recipients and the program. (g) The department shall refuse to accept a statement of participation, deny a request for reinstatement, refuse to exercise its option to renew a statement of participation, or terminate the participation of any provider who is a natural person if that provider or any agent or managing employee of such provider has been convicted of: (1) Violating subsection (b) of this Code section; or (2) Committing any other criminal offense related to any program administered under Title XVIII, XIX, or XX of the Social Security Act of 1935, as amended. (h) The department shall reinstate a provider whose participation in the medical assistance program was terminated pursuant to subsection (f) or (g) of this Code section if the conviction upon which the termination was based is reversed or vacated or if the decision of the administrative law judge is reversed in accordance with the department's rules and regulations. (i) It shall be the duty of the department to identify and investigate violations of this article and to turn over to the prosecuting attorney, for prosecution, any information concerning any recipient of medical assistance who violates this article. (j) As necessary to enforce the provisions of this article, the department or its duly authorized agents may submit to the state revenue commissioner the names of applicants for medical assistance or other benefits or payments provided under this article, as well as the relevant income threshold specified therein. If the department elects to contract with the state revenue commissioner for such purposes, the state revenue commissioner and his or her agents or employees shall notify the department whether or not each submitted applicant's income exceeds the relevant income threshold provided. The department shall pay the state revenue commissioner for all costs incurred by the Department of Revenue pursuant to this subsection. No information shall be provided by the Department of Revenue to the department without an executed cooperative agreement between the two departments. Any tax information secured from the federal government by the Department of Revenue pursuant to express provisions of *Section 6103 of the Internal Revenue Code* may not be disclosed by the Department of Revenue pursuant to this subsection. Any person receiving any tax information under the authority of this subsection is subject to the provisions of *Code Section 48-7-60* and to all penalties provided under *Code Section 48-7-61* for unlawful divulging of confidential tax information. (k)(1) The Attorney General shall have the authority to investigate and prosecute any offenses or criminal cases arising under the provisions of this Code section and to perform any duty that necessarily appertains thereto. (2) For purposes of investigating offenses or criminal cases arising under the provisions of this Code section, the Attorney General shall have the authority to employ peace officers who shall be authorized to execute all powers of a peace officer. **Credits** Laws 1981, p. 962, § 1; Laws 1985, p. 1395, §§ 1, 2; Laws 1994, p. 97, § 49; Laws 1997, p. 679, § 1; Laws 1997, p. 1596, § 1; Laws 1998, p. 128, § 49; Laws 1998, p. 664, § 1; *Laws 2006, Act 760, § 2, eff. May 3, 2006*; *Laws 2007, Act 18, § 49, eff. May 11, 2007*; *Laws 2009, Act 20, § 1, eff. Jan. 1, 2010*; *Laws 2020, Act 377, § 3, eff. July 1, 2020*. TITLE 16. CRIMES AND OFFENSES CHAPTER 10. OFFENSES AGAINST PUBLIC ADMINISTRATION ARTICLE 2. OBSTRUCTION OF PUBLIC ADMINISTRATION AND RELATED OFFENSES **O.C.G.A. § 16-10-20 - False statements and writings, concealment of facts, and fraudulent documents in matters within jurisdiction of state or political subdivisions** A person who knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes a false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than $1,000.00 or by imprisonment for not less than one nor more than five years, or both. **HISTORY:** Code 1933, § 26-2408, enacted by Ga. L. 1976, p. 483, § 1; Ga. L. 1979, p. 1068, § 1; Ga. L. 1982, p. 3, § 16.
	Qui Tam Actions & Remedies
	O.C.G.A. § 49-4-168.2 - Role of Attorney General in pursuing cases; civil actions by private persons; special procedures for civil actions by private persons; limitation on participation; stay of discovery; receipt of proceeds (**§ 49-4-168.2. Investigation of violations; civil action brought by Attorney General or private person** *Currentness*

State /Citation	False Claims Laws
	(a) The Attorney General shall be authorized to investigate suspected, alleged, and reported violations of this article. If the Attorney General finds that a person has violated or is violating this article, then the Attorney General may bring a civil action against such person under this article. (b) Subject to the exclusions set forth in this Code section, a civil action under this article may also be brought by a private person. A civil action shall be brought in the name of the State of Georgia. The civil action may be dismissed only if the court and the Attorney General give written consent to the dismissal and state the reasons for consenting to such dismissal. (c) Where a private person brings a civil action under this article, such person shall follow the following special procedures: (1) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General; (2) The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The purpose of the period under seal shall be to allow the Attorney General to investigate the allegations of the complaint. The Attorney General may elect to intervene and proceed with the civil action within 60 days after it receives both the complaint and the material evidence and information; (3) The Attorney General may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2) of this subsection. Any such motions may be supported by affidavits or other submissions in camera; (4) Before the expiration of the 60 day period or any extensions obtained under paragraph (3) of this subsection, the Attorney General shall: (A) Proceed with the civil action, in which case the civil action shall be conducted by the Attorney General; or (B) Notify the court that it declines to take over the civil action, in which case the person bringing the civil action shall have the right to proceed with the civil action; (5) The defendant shall not be required to respond to any complaint filed under this Code section until 30 days after the complaint is unsealed and served upon the defendant; and (6) When a person brings a civil action under this subsection, no person other than the Attorney General may intervene or bring a related civil action based on the facts underlying the pending civil action. (d)(1) If the Attorney General elects to intervene and proceed with the civil action, he or she shall have the primary responsibility for prosecuting the civil action and shall not be bound by an act of the person bringing such civil action. Such person shall have the right to continue as a party to the civil action, subject to the limitations set forth in this subsection. (2) The Attorney General may dismiss the civil action, notwithstanding the objections of the person initiating the civil action, if the person has been notified by the Attorney General of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion. (3) The Attorney General may settle the civil action with the defendant notwithstanding the objections of the person initiating the civil action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. (4) Upon a showing by the Attorney General that unrestricted participation during the course of the litigation by the person initiating the civil action would interfere with or unduly delay the Attorney General's litigation of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as: (A) Limiting the number of witnesses the person may call; (B) Limiting the length of the testimony of such witnesses; (C) Limiting the person's cross-examination of witnesses; or (D) Otherwise limiting the participation by the person in the litigation. (e) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the civil action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation. (f) If the Attorney General elects not to proceed with the civil action, the person who initiated the civil action shall have the right to conduct the civil action. If the Attorney General so requests, he or she shall be served with copies of all pleadings filed in the civil action and shall be supplied with copies of all deposition transcripts. When a person proceeds with the civil action, the court may nevertheless permit the Attorney General to intervene at a later date for any purpose, including, but not limited to, dismissal of the civil action notwithstanding the objections of the person initiating the civil action if such person has been notified by the Attorney General of the filing of such motion and the court has provided such person with an opportunity for a hearing on such motion. (g) Whether or not the Attorney General proceeds with the civil action, upon a showing by the Attorney General that certain actions of discovery by the person initiating the civil action would interfere with the Attorney General's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60 day period upon a further showing in camera that the Attorney General has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (h) Notwithstanding subsections (b) and (c) of this Code section, the Attorney General may elect to pursue this state's claim through any alternate remedy available to the Attorney General, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the civil action shall have the same rights in such proceeding as such person would have had if the civil action had continued under this Code section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to a civil action under this Code section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the State of Georgia, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review. (i)(1) If the Attorney General proceeds with a civil action brought by a private person under subsection (b) of this Code section, such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the civil action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the civil action. Where

State /Citation	False Claims Laws
	the civil action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the civil action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Attorney General hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing such civil action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. The remaining proceeds shall be payable to the State of Georgia, by and through the Department of Community Health, for the purposes of operating, sustaining, protecting, and administering the Georgia Medicaid program. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (2) If the Attorney General does not proceed with a civil action under this Code section, the person bringing the civil action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. Such amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the civil action or settlement and shall be paid out of such proceeds. The remaining proceeds shall be payable to the State of Georgia, by and through the Department of Community Health, for the purposes of operating, sustaining, protecting, and administering the Georgia Medicaid program. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (3) Whether or not the Attorney General proceeds with the civil action, if the court finds that the civil action was brought by a person who planned and initiated the violation of *Code Section 49-4-168.1* upon which the civil action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the civil action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the civil action is convicted of criminal conduct arising from his or her role in the violation of *Code Section 49-4-168.1*, such person shall be dismissed from the civil action and shall not receive any share of the proceeds of the civil action. Such dismissal shall not prejudice the right of the State of Georgia to continue the civil action, represented by the Attorney General. (4) If the Attorney General does not proceed with the civil action and the person bringing the civil action conducts the civil action, the court may award to the defendant its reasonable attorney's fees and expenses against the person bringing the civil action if the defendant prevails in the civil action and the court finds that the claim of the person bringing the civil action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. (5) The State of Georgia shall not be liable for expenses which a private person incurs in bringing a civil action under this article. (j) In no event may a person bring a civil action under this article which is based upon allegations or transactions which are the subject of a civil or administrative proceeding to which the State of Georgia is already party. (k) No civil action may be brought under this article with respect to any claim relating to the assessment, payment, nonpayment, refund, or collection of taxes pursuant to any provisions of Title 48. (l)(1) As used in this subsection, the term "original source" means an individual who: (A) Prior to public disclosure, has voluntarily disclosed to the Attorney General the information on which allegations or transactions in a claim are based; or (B) Has knowledge that is independent of and materially adds to publicly disclosed allegations or transactions and who has voluntarily provided such information to the Attorney General before filing a civil action under this Code section. (2) The court shall dismiss a civil action or claim under this Code section, unless opposed by the Attorney General, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed: (A) In any criminal, civil, or administrative hearing in which the State of Georgia or its employee, agent, or contractor is a party; (B) In a legislative or other Georgia report, hearing, audit, or investigation; or (C) From the news media, unless the civil action is brought by the Attorney General or the person bringing the civil action is an original source of the information. **Credits** *Laws 2007, Act 220, § 3, eff. May 24, 2007*; *Laws 2009, Act 8, § 49, eff. April 14, 2009*; *Laws 2012, Act 591, § 2-1, eff. July 1, 2012*; *Laws 2013, Act 33, § 49, eff. April 24, 2013*; *Laws 2014, Act 482, § 2, eff. April 15, 2014*. **O.C.G.A. § 23-3-122 - Bringing a civil action under this article** *Currentness* (a) The Attorney General shall be authorized to investigate suspected, alleged, and reported violations of this article. If the Attorney General finds that a person has violated or is violating this article, then the Attorney General may bring a civil action against such person under this article. The Attorney General may delegate authority to a district attorney or other appropriate official of a local government to investigate violations that may have resulted in damages to such local government under *Code Section 23-3-121* and may delegate to the local government the authority to bring a civil action on its own behalf, or on behalf of any subdivision of such local government, to recover damages sustained by such local government as a result of such violations, as well as all multiple damages, costs, expenses, attorney's fees, and civil penalties available under *Code Section 23-3-121*. The Attorney General may delegate to a district attorney or local government the authority to pursue an action brought by a private person under subsection (b) of this Code section. Notwithstanding any such delegation of authority, the Attorney General shall retain the authority to continue or discontinue the prosecution of any such action and to withdraw any such authority previously delegated to a district attorney or local government.

State /Citation	False Claims Laws
	(b)(1) Subject to the exclusions set forth in this Code section, a civil action under this article may also be brought by a private person upon written approval by the Attorney General. A civil action shall be brought in the name of the State of Georgia or local government, as applicable. The civil action may be dismissed only if the Attorney General gives written consent to the dismissal stating the reasons for consenting to such dismissal and the court enters an order approving the dismissal. (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General by certified mail or statutory overnight delivery. The complaint shall be filed in camera and under seal, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The state or, if delegated the authority by the Attorney General, local government may elect to intervene and proceed with the action within 60 days after the Attorney General receives both the complaint and the material evidence and information. (3) The state or, if delegated the authority by the Attorney General, the local government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2) of this subsection. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this Code section until 30 days after the complaint is unsealed and served upon the defendant. (4) Before the expiration of the 60 day period or any extensions obtained under paragraph (3) of this subsection, the state or local government shall: (A) Proceed with the civil action, in which case the civil action shall be conducted by the state or local government; or (B) Notify the court that it declines to take over the civil action, in which case the person bringing the civil action shall have the right to proceed with the civil action. (5) When a person brings a civil action under this subsection, no person other than the state or, if delegated the authority by the Attorney General, the local government may intervene or bring a related civil action based on the facts underlying the pending civil action. (6) Any evidence and information provided to the Attorney General or his or her designee, including any district attorney or local government, by a private person in connection with an action under this Code section shall not constitute public records and shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50. Any such evidence also shall be protected by the common interest privilege and work product doctrine. To effectuate the law enforcement purposes of this article in combating fraud and false claims directed at the public's funds, it is the public policy of this state that private persons be authorized to take actions to provide to the Attorney General or local government such information and evidence. (c)(1) If the state or local government elects to intervene and proceeds with the civil action, it shall have the primary responsibility for prosecuting the civil action and shall not be bound by an act of the person bringing such civil action. Such person shall have the right to continue as a party to the civil action, subject to the limitations set forth in this subsection. (2) If the Attorney General has consented to a dismissal or elected not to proceed with a civil action, a local government may dismiss the civil action, notwithstanding the objections of the person initiating the civil action, if the person has been notified by the local government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion. (3) The state or local government may settle the civil action with the defendant, notwithstanding the objections of the person initiating the civil action, if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. (4) Upon a showing by the state or local government that unrestricted participation during the course of the litigation by the person initiating the civil action would interfere with or unduly delay the state or local government's litigation of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as: (A) Limiting the number of witnesses the person may call; (B) Limiting the length of the testimony of such witnesses; (C) Limiting the person's cross-examination of witnesses; or (D) Otherwise limiting the participation of the person in the litigation. (d) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the civil action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation of the person in the litigation. (e) If the state or local government elects not to proceed with the civil action, the person who initiated the civil action shall have the right to conduct the civil action. If the state or local government so requests, it shall be served with copies of all pleadings filed in the civil action and shall be supplied, without cost, with copies of all deposition transcripts. When a person proceeds with the civil action, the court may nevertheless permit the state or local government to intervene at a later date upon a showing of good cause. (f) Whether or not the state or local government proceeds with the civil action, upon a showing by the state or local government that certain actions of discovery by the person initiating the civil action would interfere with the state or local government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60 day period upon a further showing in camera that the state or local government has pursued the criminal or civil investigation or proceedings with reasonable diligence, and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (g) Notwithstanding subsection (b) of this Code section, the state or local government may elect to pursue its claim through any alternate remedy available to the state or local government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the civil action shall have the same rights in such proceeding as such person would have had if the civil action had continued under this Code section. Any finding of fact or conclusion of law made in such other proceeding that becomes final shall be conclusive on all parties to a civil action under this Code section. For purposes of this subsection, a finding or conclusion shall be deemed final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

State /Citation	False Claims Laws
	(h)(1) If the state or local government proceeds with a civil action brought by a private person under subsection (b) of this Code section, such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the civil action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the civil action. Where the civil action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the civil action, relating to allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, or State Accounting Office report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing such civil action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (2) If the state or local government does not proceed with a civil action under this Code section, the person bringing the civil action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. Such amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the civil action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (3) Whether or not the state or local government proceeds with the civil action, if the court finds that the civil action was brought by a person who planned and initiated the violation of this article upon which the civil action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the civil action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the civil action is convicted of criminal conduct arising from his or her role in the violation of this article, such person shall be dismissed from the civil action and shall not receive any share of the proceeds of the civil action. Such dismissal shall not prejudice the right of the State of Georgia to continue the civil action, represented by the Attorney General or local government attorney to whom the Attorney General has delegated authority. (4) If the state or local government does not proceed with the civil action and the person bringing the civil action conducts the civil action, the court may award to the defendant its reasonable attorney's fees and expenses against the person bringing the civil action if the defendant prevails in the civil action and the court finds that the claim of the person bringing the civil action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. (i) For purposes of this subsection, the term “public employee,” “public official,” and “public employment” shall include federal, state, and local employees and officials. No civil action shall be brought under this article by a person who is or was a public employee or public official if the allegations of such action are substantially based upon: (1) Allegations of wrongdoing or misconduct which such person had a duty or obligation to report or investigate within the scope of his or her public employment or office; or (2) Information or records to which such person had access as a result of his or her public employment or office. (j)(1) No court shall have jurisdiction over a civil action brought under subsection (b) of this Code section against a member of the General Assembly or a member of the judiciary if the civil action is based on evidence or information known to the state when the civil action was brought. (2) In no event may a person bring a civil action under subsection (b) of this Code section which is based upon allegations or transactions which are the subject of a civil or administrative proceeding to which the State of Georgia is already party. (3) The court shall dismiss a civil action or claim under this Code section, unless opposed by the state or local government, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed: (A) In a state criminal, civil, or administrative hearing in which the state or local government or its agent is a party; (B) In a state or local government legislative or other state or local government report, hearing, audit, or investigation that is made on the public record or disseminated broadly to the general public, provided that such information shall not be deemed publicly disclosed in a report or investigation because it was disclosed or provided pursuant to Article 4 of Chapter 18 of Title 50, the federal Freedom of Information Act, or under any other federal, state, or local law, rule, or program enabling the public to request, receive, or view documents or information in the possession of public officials or public agencies; or (C) From the news media, provided that such allegations or transactions are not publicly disclosed in the news media merely because information of allegations or transactions have been posted on the Internet or on a computer network, unless the action is brought by the Attorney General or local government, or the person bringing the action is an original source of the information. For purposes of this subparagraph, the term “original source” means a person who: (i) Prior to a public disclosure under this paragraph, has voluntarily disclosed to the state or a local government the information on which allegations or transactions in a claim are based; or (ii) Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions and who has voluntarily provided the information to the state or a local government before filing a civil action under this Code section. (k) The state or local government shall not be liable for expenses which a private person incurs in bringing a civil action under this article. (l)(1) Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of a civil action under this Code section or other efforts to stop one or more violations of this article.

State /Citation	False Claims Laws
	(2) Relief under paragraph (1) of this subsection shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An action under this subsection may be brought in the appropriate superior court of this state for the relief provided in this subsection. (3) A civil action under this subsection shall not be brought more than three years after the date when the discrimination occurred. **Credits** *Laws 2012, Act 591, § 1-2, eff. July 1, 2012*; *Laws 2013, Act 33, § 23, eff. April 24, 2013*. **O.C.G.A. § 49-4-168.3 - Standard of proof; actions governed by Civil Procedure Act; Attorney General election to intervene and proceed with civil action** ***Currentness*** (a) In any civil action brought under this article, the State of Georgia or person bringing the civil action shall be required to prove all essential elements of the cause of civil action, including damages, by a preponderance of the evidence. (b) Except as otherwise provided in this article, all civil actions brought under this article shall be governed by the provisions of Chapter 11 of Title 9, the "Georgia Civil Practice Act." (c) If the Attorney General elects to intervene and proceed with a civil action brought pursuant to this article, the Attorney General may file his or her own complaint or amend the complaint of a person who has brought a civil action under this article to clarify or add detail to the claims in which the Attorney General is intervening and to add any additional claims with respect to which the State of Georgia contends it is entitled to relief. For purposes of the statute of limitations, any such pleading by the Attorney General shall relate back to the filing date of the complaint of the person who originally brought the civil action, to the extent that the claim of the State of Georgia arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the original complaint by such person. Credits ***Laws 2007, Act 220, § 3, eff. May 24, 2007***; ***Laws 2012, Act 591, § 2-1, eff. July 1, 2012***. **O.C.G.A. § 23-3-123 - Statute of limitations; service of subpoena; limitation on disclosures; intervention; preponderance of the evidence standard; effect of criminal conviction on civil actions** (a) Except as provided in paragraph (3) of subsection (l) of *Code Section 23-3-122*, all civil actions under this article shall be filed pursuant to *Code Section 23-3-122* within six years after the date the violation was committed or three years after the date when facts material to the right of civil action are known or reasonably should have been known by the state or local government official charged with the responsibility to act in the circumstances, whichever occurs last; provided, however, that in no event shall any civil action be filed more than ten years after the date upon which the violation was committed. (b) A subpoena requiring the attendance of a witness at a trial or hearing conducted under *Code Section 23-3-122* may be served at any place in this state. (c) For purposes of applying subsection (b) of *Code Section 9-11-9*, in pleading a civil action brought under this article, the qui tam plaintiff shall not be required to identify specific claims that result from an alleged course of misconduct or any specific records or statements used if the facts alleged in the complaint, if ultimately proven true, would provide a reasonable indication that one or more violations of *Code Section 23-3-121* are likely to have occurred and if the allegations in the pleading provide adequate notice of the specific nature of the alleged misconduct to permit the state or a local government to investigate effectively and defendants to defend fairly the allegations made. (d) If the state or local government elects to intervene and proceed with a civil action brought under subsection (b) of *Code Section 23-3-122*, the state or local government may file its own complaint or amend the complaint of a person who has brought an action under such subsection to clarify or add detail to the claims in which the state or local government is intervening and to add any additional claims with respect to which the state or local government contends it is entitled to relief. For statute of limitations purposes, any such state or local government pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the state or local government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person. (e) In any action brought under *Code Section 23-3-122*, the plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence. (f) Notwithstanding any other provision of law, a final judgment rendered in favor of the state or local government or the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any civil action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of *Code Section 23-3-122*. **HISTORY:** Code 1981, *§ 23-3-123*, enacted by *Ga. L. 2012, p. 127, § 1-2/HB 822*.

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	O.C.G.A. § 23-3-124 - Venue All civil actions brought under this article in a court of this state shall be brought in the county where the defendant or any one defendant, in the case of multiple defendants or defendants who are not residents of the State of Georgia, resides, can be found, transacts business, or commits an act in furtherance of the submittal of a false or fraudulent claim to the state or local government. Civil actions under this article may be brought in courts of the United States and other states if there is pendent jurisdiction. **HISTORY:** Code 1981, *§ 23-3-124*, enacted by *Ga. L. 2012, p. 127, § 1-2/HB 822*. **O.C.G.A. § 49-4-168.5 - Statute of limitations** All civil actions under this article shall be filed pursuant to *Code Section 49-4-168.2* within six years after the date the violation was committed, or four years after the date when facts material to the right of civil action are known or reasonably should have been known by the state official charged with the responsibility to act in the circumstances, whichever occurs last; provided, however, that in no event shall any civil action be filed more than ten years after the date upon which the violation was committed. **HISTORY:** Code 1981, *§ 49-4-168.5*, enacted by *Ga. L. 2007, p. 355, § 3/HB 551*; *Ga. L. 2012, p. 127, § 2-1/HB 822*. **O.C.G.A. § 49-4-168.6 - Venue** All civil actions brought against natural persons under this article shall be brought in the county where the defendant or, in the case of multiple defendants or of defendants who are not residents of the State of Georgia, in any county where any one defendant resides, can be found, transacts business, or commits an act in furtherance of the submittal of a false or fraudulent claim to the Georgia Medicaid program. **HISTORY:** Code 1981, *§ 49-4-168.6*, enacted by *Ga. L. 2007, p. 355, § 3/HB 551*; *Ga. L. 2009, p. 8, § 49/SB 46*; *Ga. L. 2012, p. 127, § 2-1/HB 822*.
	Whistle-blower Protections
	O.C.G.A. § 49-4-168.4 - Discrimination against employee for lawful acts in furtherance of civil action under article; relief ***Currentness*** (a) Any employee, contractor, or agent shall be entitled to all relief necessary to make such employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by such employee, contractor, agent or associated others in furtherance of a civil action under this Code section or other efforts to stop one or more violations of this article. (b) Relief under subsection (a) of this Code section shall include reinstatement with the same seniority status that such employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. A civil action under this subsection may be brought in an appropriate court of this state for the relief provided in this Code section. (c) Notwithstanding *Code Section 49-4-168.5*, a civil action under this Code section may not be brought more than three years after the date when the discrimination occurred. Credits ***Laws 2007, Act 220, § 3, eff. May 24, 2007***; ***Laws 2012, Act 591, § 2-1, eff. July 1, 2012***. **O.C.G.A. § 23-3-122 - Bringing a civil action under this article** *Currentness* (a) The Attorney General shall be authorized to investigate suspected, alleged, and reported violations of this article. If the Attorney General finds that a person has violated or is violating this article, then the Attorney General may bring a civil action against such person under this article. The Attorney General may delegate authority to a district attorney or other appropriate official of a local government to investigate violations that may have resulted in damages to such local government under *Code Section 23-3-121* and may delegate to the local government the authority to bring a civil action on its own behalf, or on behalf of any subdivision of such local government, to recover damages sustained by such local government as a result of such violations, as well as all multiple damages, costs, expenses, attorney's fees, and civil penalties available under *Code Section 23-3-121*. The Attorney General may delegate to a district attorney or local government the authority to pursue an action brought by a private person under subsection (b) of this Code section. Notwithstanding any such delegation of authority, the Attorney General shall retain the authority to continue or discontinue the prosecution of any such action and to withdraw any such authority previously delegated to a district attorney or local government.

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	(b)(1) Subject to the exclusions set forth in this Code section, a civil action under this article may also be brought by a private person upon written approval by the Attorney General. A civil action shall be brought in the name of the State of Georgia or local government, as applicable. The civil action may be dismissed only if the Attorney General gives written consent to the dismissal stating the reasons for consenting to such dismissal and the court enters an order approving the dismissal. (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General by certified mail or statutory overnight delivery. The complaint shall be filed in camera and under seal, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The state or, if delegated the authority by the Attorney General, local government may elect to intervene and proceed with the action within 60 days after the Attorney General receives both the complaint and the material evidence and information. (3) The state or, if delegated the authority by the Attorney General, the local government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2) of this subsection. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this Code section until 30 days after the complaint is unsealed and served upon the defendant. (4) Before the expiration of the 60 day period or any extensions obtained under paragraph (3) of this subsection, the state or local government shall: (A) Proceed with the civil action, in which case the civil action shall be conducted by the state or local government; or (B) Notify the court that it declines to take over the civil action, in which case the person bringing the civil action shall have the right to proceed with the civil action. (5) When a person brings a civil action under this subsection, no person other than the state or, if delegated the authority by the Attorney General, the local government may intervene or bring a related civil action based on the facts underlying the pending civil action. (6) Any evidence and information provided to the Attorney General or his or her designee, including any district attorney or local government, by a private person in connection with an action under this Code section shall not constitute public records and shall be exempt from disclosure under Article 4 of Chapter 18 of Title 50. Any such evidence also shall be protected by the common interest privilege and work product doctrine. To effectuate the law enforcement purposes of this article in combating fraud and false claims directed at the public's funds, it is the public policy of this state that private persons be authorized to take actions to provide to the Attorney General or local government such information and evidence. (c)(1) If the state or local government elects to intervene and proceeds with the civil action, it shall have the primary responsibility for prosecuting the civil action and shall not be bound by an act of the person bringing such civil action. Such person shall have the right to continue as a party to the civil action, subject to the limitations set forth in this subsection. (2) If the Attorney General has consented to a dismissal or elected not to proceed with a civil action, a local government may dismiss the civil action, notwithstanding the objections of the person initiating the civil action, if the person has been notified by the local government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion. (3) The state or local government may settle the civil action with the defendant, notwithstanding the objections of the person initiating the civil action, if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. (4) Upon a showing by the state or local government that unrestricted participation during the course of the litigation by the person initiating the civil action would interfere with or unduly delay the state or local government's litigation of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as: (A) Limiting the number of witnesses the person may call; (B) Limiting the length of the testimony of such witnesses; (C) Limiting the person's cross-examination of witnesses; or (D) Otherwise limiting the participation of the person in the litigation. (d) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the civil action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation of the person in the litigation. (e) If the state or local government elects not to proceed with the civil action, the person who initiated the civil action shall have the right to conduct the civil action. If the state or local government so requests, it shall be served with copies of all pleadings filed in the civil action and shall be supplied, without cost, with copies of all deposition transcripts. When a person proceeds with the civil action, the court may nevertheless permit the state or local government to intervene at a later date upon a showing of good cause. (f) Whether or not the state or local government proceeds with the civil action, upon a showing by the state or local government that certain actions of discovery by the person initiating the civil action would interfere with the state or local government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60 day period upon a further showing in camera that the state or local government has pursued the criminal or civil investigation or proceedings with reasonable diligence, and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (g) Notwithstanding subsection (b) of this Code section, the state or local government may elect to pursue its claim through any alternate remedy available to the state or local government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the civil action shall have the same rights in such proceeding as such person would have had if the civil action had continued under this Code section. Any finding of fact or conclusion of law made in such other proceeding that becomes final shall be conclusive on all parties to a civil action under this Code section. For purposes of this subsection, a finding or conclusion shall be deemed final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

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	(h)(1) If the state or local government proceeds with a civil action brought by a private person under subsection (b) of this Code section, such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the civil action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the civil action. Where the civil action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the civil action, relating to allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, or State Accounting Office report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing such civil action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (2) If the state or local government does not proceed with a civil action under this Code section, the person bringing the civil action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. Such amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the civil action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. (3) Whether or not the state or local government proceeds with the civil action, if the court finds that the civil action was brought by a person who planned and initiated the violation of this article upon which the civil action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the civil action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the civil action is convicted of criminal conduct arising from his or her role in the violation of this article, such person shall be dismissed from the civil action and shall not receive any share of the proceeds of the civil action. Such dismissal shall not prejudice the right of the State of Georgia to continue the civil action, represented by the Attorney General or local government attorney to whom the Attorney General has delegated authority. (4) If the state or local government does not proceed with the civil action and the person bringing the civil action conducts the civil action, the court may award to the defendant its reasonable attorney's fees and expenses against the person bringing the civil action if the defendant prevails in the civil action and the court finds that the claim of the person bringing the civil action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. (i) For purposes of this subsection, the term "public employee," "public official," and "public employment" shall include federal, state, and local employees and officials. No civil action shall be brought under this article by a person who is or was a public employee or public official if the allegations of such action are substantially based upon: (1) Allegations of wrongdoing or misconduct which such person had a duty or obligation to report or investigate within the scope of his or her public employment or office; or (2) Information or records to which such person had access as a result of his or her public employment or office. (j)(1) No court shall have jurisdiction over a civil action brought under subsection (b) of this Code section against a member of the General Assembly or a member of the judiciary if the civil action is based on evidence or information known to the state when the civil action was brought. (2) In no event may a person bring a civil action under subsection (b) of this Code section which is based upon allegations or transactions which are the subject of a civil or administrative proceeding to which the State of Georgia is already party. (3) The court shall dismiss a civil action or claim under this Code section, unless opposed by the state or local government, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed: (A) In a state criminal, civil, or administrative hearing in which the state or local government or its agent is a party; (B) In a state or local government legislative or other state or local government report, hearing, audit, or investigation that is made on the public record or disseminated broadly to the general public, provided that such information shall not be deemed publicly disclosed in a report or investigation because it was disclosed or provided pursuant to Article 4 of Chapter 18 of Title 50, the federal Freedom of Information Act, or under any other federal, state, or local law, rule, or program enabling the public to request, receive, or view documents or information in the possession of public officials or public agencies; or (C) From the news media, provided that such allegations or transactions are not publicly disclosed in the news media merely because information of allegations or transactions have been posted on the Internet or on a computer network, unless the action is brought by the Attorney General or local government, or the person bringing the action is an original source of the information. For purposes of this subparagraph, the term "original source" means a person who: (i) Prior to a public disclosure under this paragraph, has voluntarily disclosed to the state or a local government the information on which allegations or transactions in a claim are based; or (ii) Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions and who has voluntarily provided the information to the state or a local government before filing a civil action under this Code section. (k) The state or local government shall not be liable for expenses which a private person incurs in bringing a civil action under this article. (l)(1) Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of a civil action under this Code section or other efforts to stop one or more violations of this article.

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	(2) Relief under paragraph (1) of this subsection shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An action under this subsection may be brought in the appropriate superior court of this state for the relief provided in this subsection. (3) A civil action under this subsection shall not be brought more than three years after the date when the discrimination occurred. **Credits** *Laws 2012, Act 591, § 1-2, eff. July 1, 2012*; *Laws 2013, Act 33, § 23, eff. April 24, 2013*. TITLE 45. PUBLIC OFFICERS AND EMPLOYEES CHAPTER 1. GENERAL PROVISIONS **O.C.G.A. § 45-1-4 - Fraud, waste, or abuse in state programs and operations; complaints or information from public employees; retaliation** *Currentness* (a) As used in this Code section, the term: (1) "Government agency" means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations. (2) "Law, rule, or regulation" includes any federal, state, or local statute or ordinance or any rule or regulation adopted according to any federal, state, or local statute or ordinance. (3) "Public employee" means any person who is employed by the executive, judicial, or legislative branch of the state or by any other department, board, bureau, commission, authority, or other agency of the state. This term also includes all employees, officials, and administrators of any agency covered by the rules of the State Personnel Board and any local or regional governmental entity that receives any funds from the State of Georgia or any state agency. (4) "Public employer" means the executive, judicial, or legislative branch of the state; any other department, board, bureau, commission, authority, or other agency of the state which employs or appoints a public employee or public employees; or any local or regional governmental entity that receives any funds from the State of Georgia or any state agency. (5) "Retaliate" or "retaliation" refers to the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public employer against a public employee in the terms or conditions of employment for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or government agency. (6) "Supervisor" means any individual: (A) To whom a public employer has given authority to direct and control the work performance of the affected public employee; (B) To whom a public employer has given authority to take corrective action regarding a violation of or noncompliance with a law, rule, or regulation of which the public employee complains; or (C) Who has been designated by a public employer to receive complaints regarding a violation of or noncompliance with a law, rule, or regulation. (b) A public employer may receive and investigate complaints or information from any public employee concerning the possible existence of any activity constituting fraud, waste, and abuse in or relating to any state programs and operations under the jurisdiction of such public employer. (c) Notwithstanding any other law to the contrary, such public employer shall not after receipt of a complaint or information from a public employee disclose the identity of the public employee without the written consent of such public employee, unless the public employer determines such disclosure is necessary and unavoidable during the course of the investigation. In such event, the public employee shall be notified in writing at least seven days prior to such disclosure. (d)(1) No public employer shall make, adopt, or enforce any policy or practice preventing a public employee from disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency. (2) No public employer shall retaliate against a public employee for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency, unless the disclosure was made with knowledge that the disclosure was false or with reckless disregard for its truth or falsity. (3) No public employer shall retaliate against a public employee for objecting to, or refusing to participate in, any activity, policy, or practice of the public employer that the public employee has reasonable cause to believe is in violation of or noncompliance with a law, rule, or regulation. (4) Paragraphs (1), (2), and (3) of this subsection shall not apply to policies or practices which implement, or to actions by public employers against public employees who violate, privilege or confidentiality obligations recognized by constitutional, statutory, or common law. (e)(1) A public employee who has been the object of retaliation in violation of this Code section may institute a civil action in superior court for relief as set forth in paragraph (2) of this subsection within one year after discovering the retaliation or within three years after the retaliation, whichever is earlier. (2) In any action brought pursuant to this subsection, the court may order any or all of the following relief: (A) An injunction restraining continued violation of this Code section; (B) Reinstatement of the employee to the same position held before the retaliation or to an equivalent position;

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	(C) Reinstatement of full fringe benefits and seniority rights; (D) Compensation for lost wages, benefits, and other remuneration; and (E) Any other compensatory damages allowable at law. (f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing public employee. **Credits** **Laws 1993, p. 563, § 1; *Laws 2005, Act 213, § 1, eff. July 1, 2005*; *Laws 2007, Act 206, § 1, eff. July 1, 2007*; *Laws 2009, Act 155, §§ 1, 2, eff. July 1, 2009*; *Laws 2012, Act 630, § 2-66, eff. July 1, 2012*.**
Hawaii/ HRS § 661-21 – 661-29 HRS § 46-171 - 46-179 HRS § 378-61 *et seq* HRS § 346-43.5	**Criminal and Civil Penalties for False Claims and Statements** Hawaii Other Helpful Information About Medicaid Fraud & Reporting Fraud https://medquest.hawaii.gov/en/members-applicants/fraud-prevention.html http://ag.hawaii.gov/cjd/medicaid-fraud-control-unit/ **HRS § 661-21 - Actions for false claims to the State; qui tam actions.** ***http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-.htm*** *http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0021.htm* (a) Notwithstanding *section 661-7* to the contrary, any person who: (1) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; (3) Has possession, custody, or control of property or money used, or to be used, by the State and, intending to defraud the State or to wilfully conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt; (4) Is authorized to make or deliver a document certifying receipt of property used, or to be used by the State and, intending to defraud the State, makes or delivers the receipt without completely knowing that the information on the receipt is true; (5) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of the State who is not lawfully authorized to sell or pledge the property; (6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the State, or knowingly conceals, or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the State; (7) Is a beneficiary of an inadvertent submission of a false claim to the State, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the State within a reasonable time after discovery of the false claim; or (8) Conspires to commit any of the conduct described in this subsection, shall be liable to the State for a civil penalty of not less than $11,463 and not more than $22,927, plus three times the amount of damages that the State sustains due to the act of that person; provided that for 2020 and annually thereafter, the minimum and maximum penalty amounts shall be the same as the minimum and maximum civil monetary penalty amounts authorized for the federal False Claims Act, *title 31 United States Code section 3729*, adjusted for cost-of-living adjustments and for the same effective dates, as adopted by the United States Department of Justice by federal rule in title 28 Code of Federal Regulations part 85,*1* pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, *P.L. 101-410*, *title 31 United States Code section 3717*. (b) If the court finds that a person who has violated subsection (a): (1) Furnished officials of the State responsible for investigating false claims violations with all information known to the person about the violation within thirty days after the date on which the defendant first obtained the information; (2) Fully cooperated with any state investigation of the violation; and (3) At the time the person furnished the State with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; the court may assess not less than two times the amount of damages that the State sustains because of the act of the person. A person violating subsection (a) shall also be liable to the State for the costs and attorneys' fees of a civil action brought to recover the penalty or damages.

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	(c) Liability under this section shall be joint and several for any act committed by two or more persons. (d) This section shall not apply to any controversy involving an amount of less than $500 in value. For purposes of this subsection, "controversy" means the aggregate of any one or more false claims submitted by the same person in violation of this part. Proof of specific intent to defraud is not required. (e) For purposes of this section: "Claim" means any request or demand, whether under a contract or otherwise, for money or property, and whether or not the State has title to the money or property, that is presented to an officer, employee, or agent of the State or is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the State's behalf or to advance a state program or interest, and if the State provides or has provided any portion of the money or property that is requested or demanded or will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded. "Claim" shall not include requests or demands for money or property that the State has paid to an individual as compensation for employment or as an income subsidy with no restrictions on that individual's use of the money or property. "Knowing" and "knowingly" means that a person, with respect to information: (1) Has actual knowledge of the information; (2) Acts in deliberate ignorance of the truth or falsity of the information; or (3) Acts in reckless disregard of the truth or falsity of the information; and no proof of specific intent to defraud is required. "Material" means having the tendency to influence or capability to influence the payment or receipt of money or property. "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute, regulation, or administrative rule, or from the retention of any overpayment. **Credits** *Laws 2000, ch. 126, § 1*; *Laws 2001, ch. 55, § 28*(1); *Laws 2012, ch. 294, § 6*, eff. July 9, 2012; *Laws 2019, ch. 68, § 2*, eff. June 7, 2019. **HRS § 46-171. Actions for false claims to the counties; qui tam actions.** *http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0171.htm* HRS § 46-171 **§ 46-171. Actions for false claims to the counties; qui tam actions** *Currentness* <This section is partially suspended through the disaster emergency relief period declared by the Proclamation Relating to Wildfires, which was signed and took effect on August 8, 2023, and all executive actions issued subsequent thereto.> (a) Any person who: (1) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; (3) Has possession, custody, or control of property or money used, or to be used, by a county and, intending to defraud a county or to wilfully conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt; (4) Is authorized to make or deliver a document certifying receipt of property used, or to be used by a county and, intending to defraud a county, makes or delivers the receipt without completely knowing that the information on the receipt is true; (5) Buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of a county that the person knows is not lawfully authorized to sell or pledge the property; (6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to a county, or knowingly conceals, or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a county; (7) Is a beneficiary of an inadvertent submission of a false claim to a county, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the county within a reasonable time after discovery of the false claim; or (8) Conspires to commit any of the conduct described in this subsection, shall be liable to the county for a civil penalty of not less than $5,500 and not more than $11,000, plus three times the amount of damages that the county sustains due to the act of that person.

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	(b) If the court finds that a person who has violated subsection (a): (1) Furnished officials of the county responsible for investigating false claims violations with all information known to the person about the violation within thirty days after the date on which the defendant first obtained the information; (2) Fully cooperated with any county investigation of the violation; and (3) At the time the person furnished the county with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; the court may assess not less than two times the amount of damages that the county sustains because of the act of the person. A person violating subsection (a) shall also be liable to the county for the costs and attorneys' fees of a civil action brought to recover the penalty or damages. (c) Liability under this section shall be joint and several for any act committed by two or more persons. (d) This section shall not apply to any controversy involving an amount of less than $500 in value. For purposes of this subsection, "controversy" means the aggregate of any one or more false claims submitted by the same person in violation of this part. Proof of specific intent to defraud is not required. (e) For purposes of this section: "Claim" means any request or demand, whether under a contract or otherwise, for money or property, and whether or not a county has title to the money or property, that is presented to an officer, employee, or agent of the county or is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the county's behalf or to advance a county program or interest, and if the county provides or has provided any portion of the money or property that is requested or demanded or will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded. "Claim" shall not include requests or demands for money or property that a county has paid to an individual as compensation for employment or as an income subsidy with no restrictions on that individual's use of the money or property. "Knowing" and "knowingly" means that a person, with respect to information: (1) Has actual knowledge of the information; (2) Acts in deliberate ignorance of the truth or falsity of the information; or (3) Acts in reckless disregard of the truth or falsity of the information; and no proof of specific intent to defraud is required. "Material" means having the tendency to influence or capability to influence the payment or receipt of money or property. "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute, regulation, or administrative rule, or from the retention of any overpayment. **Credits** *Laws 2001, ch. 227, § 1*; *Laws 2012, ch. 294, § 2*, eff. July 9, 2012. HRS § 346-43.5 - **Medical assistance fraud; penalties.** (a) A person commits the offense of medical assistance fraud if: (1) The person knowingly makes or causes to be made to the medical assistance program any false statement or representation of a material fact in any application for any benefit or payment for furnishing services or supplies, or for the purpose of obtaining greater compensation than that to which the person is legally entitled, or for the purpose of obtaining authorization for furnishing services or supplies; or (2) The person knowingly makes or causes to be made any false statement or representation of a material fact in any application for any medical assistance benefit or renewal of any medical assistance benefit, or in any statement, document, or record, in written, printed, or electronic form, in support of, or connected with, that application for or renewal of medical assistance benefits. (b) A person convicted under subsection (a)(2) shall pay restitution equivalent to the amount of medical assistance benefits paid by the State on behalf of that person. (c) For purposes of this section, the term "medical assistance benefit" means health care coverage or services, including medical, behavioral health, dental, or long-term care services, provided to or paid for on behalf of a person by the State, regardless of source of funding. Payment for medical assistance benefits may be made through capitated payments, insurance premiums, copayments, any payments made by the State to that person's health care providers, and any other payments made by the State on behalf of the person for health care coverage or services. (d) The offense of medical assistance fraud is a class C felony. (e) The remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.

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	Credits **Laws 1980, ch. 210, § 1; *Laws 2016, ch. 94, § 1*, eff. June 21, 2016.**
	Qui Tam Actions & Remedies
	HRS § 661-25 - Action by private persons. *http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0025.htm* **Action by private persons** *Currentness* (a) A person may bring a civil action for a violation of *section 661-21* for the person and for the State. The action shall be brought in the name of the State. The action may be dismissed only with the written consent of the court, taking into account the best interests of the parties involved and the public purposes behind this part. (b) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the State in accordance with the Hawaii rules of civil procedure. The complaint shall be filed in camera, shall remain under seal for at least sixty days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information. (c) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subsection (b). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until twenty days after the complaint is unsealed and served upon the defendant in accordance with the Hawaii rules of civil procedure. (d) Before the expiration of the sixty-day period or any extension obtained, the State shall: (1) Proceed with the action, in which case the action shall be conducted by the State and the seal shall be lifted; or (2) Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action and the seal shall be lifted. (e) When a person brings an action under this section, no person other than the State may intervene or bring a related action based on the facts underlying the pending action. **Credits** *Laws 2000, ch. 126, § 1*; *Laws 2001, ch. 55, § 28*(4). HRS § 661-26 - **Rights of parties to qui tam actions.** *http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0026.htm* *Currentness* (a) If the State proceeds with an action under *section 661-25*, the State shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the person bringing the action. The person shall have the right to continue as a party to the action, subject to the following limitations: (1) The State may dismiss the action notwithstanding the objections of the person initiating the action if the court determines, after a hearing on the motion, that dismissal should be allowed; (2) The State may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable. Upon a showing of good cause, the hearing may be held in camera; (3) The court, upon a showing by the State that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the State's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, may, in its discretion impose limitations on the person's participation by: (A) Limiting the number of witnesses the person may call; (B) Limiting the length of the testimony of the witnesses; (C) Limiting the person's cross-examination of witnesses; or (D) Otherwise limiting the participation by the person in the litigation. (b) The defendant, by motion upon the court, may show that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense. At the court's discretion, the court may limit the participation by the person in the litigation.

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	(c) If the State elects not to proceed with the action, the person who initiated that action shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the State's expense. When a person proceeds with the action, the court without limiting the status and rights of the person initiating the action, may nevertheless permit the State to intervene at a later date upon showing of good cause. (d) Whether or not the State proceeds with the action, upon motion and a showing by the State that certain actions of discovery by the person initiating the action would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than sixty days. The court may extend the sixty-day period upon a motion and showing by the State that the State has pursued the investigation or prosecution of the criminal or civil matter with reasonable diligence and the proposed discovery would interfere with the ongoing investigation or prosecution of the criminal or civil matter. (e) Notwithstanding *section 661-25*, the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceedings to determine civil monetary penalties. If any alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in the proceedings as the person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that becomes final shall be conclusive on all parties to an action under this section. (f) Whether or not the State elects to proceed with the action, the parties to the action shall receive court approval of any settlements reached. **Credits** *Laws 2000, ch. 126, § 1*. **[§ 661-27.] Awards to qui tam plaintiffs.** *http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0027.htm* (a) If the State proceeds with an action brought by a person under *section 661-25*, the person shall receive at least fifteen per cent but not more than twenty-five per cent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award sums as it considers appropriate, but in no case more than ten per cent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under this subsection shall be made from the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant. (b) If the State proceeds with an action brought under *section 661-21*, the State may file its own complaint or amend the complaint of a person who has brought an action under *section 661-21* 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 contends it is entitled to relief. For statute of limitations purposes, any such state pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the State arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person. (c) If the State does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five per cent and not more than thirty per cent of the proceeds of the action or settlement and shall be paid out of the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant. (d) Whether or not the State proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of *section 661-21* upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the person would otherwise receive under subsection (a), taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of *section 661-21*, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of the State to continue the action. (e) If the State does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was frivolous, vexatious, or brought primarily for purposes of harassment. (f) In no event may a person bring an action under *section 661-25*: (1) Against a member of the state senate or state house of representatives, a member of the judiciary, or an elected official in the executive branch of the State, if the action is based on evidence or information known to the State. For purposes of this section, evidence or information known only to the person or persons against whom an action is brought shall not be considered to be known to the State; or (2) That is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party. **Credits** *Laws 2000, ch. 126, § 1*; *Laws 2012, ch. 294, § 7*, eff. July 9, 2012. HRS § 661-31 - **Certain actions barred.**

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	(a) In no event may a person bring an action under this part that is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party. **(b)** The court shall dismiss an action or claim under this part, unless opposed by the State, if the allegations or transactions alleged in the action or claim are substantially the same as those publicly disclosed: **(1)** In a state criminal, civil, or administrative hearing in which the State or its agent is a party; **(2)** In a state legislative or other state report, hearing, audit, or investigation; or **(3)** By the news media, unless the action is brought by the attorney general or the person bringing the action is an original source of the information. **(c)** For purposes of this section, "original source" means an individual who: **(1)** Prior to public disclosure under subsection (b), has voluntarily disclosed to the State the information on which the allegations or transactions in a claim are based; or **(2)** Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the State before filing an action under this part. **HISTORY:** L 2012, c 294, § 5, effective July 9, 2012. **HRS § 46-175. Action by private persons.** *http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0175.htm* **(a)** A person may bring a civil action for a violation of section 46-171 for the person and for a county. The action shall be brought in the name of the county. The action may be dismissed only with the written consent of the court, taking into account the best interests of the parties involved and the public purposes behind this part. **(b)** A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the county in accordance with the Hawaii rules of civil procedure. The complaint: **(1)** Shall be filed in camera; **(2)** Shall remain under seal for at least sixty days; and **(3)** Shall not be served on the defendant until the court so orders. The county may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information. **(c)** The county, for good cause shown, may move the court for extensions of the time during which the complaint remains under seal under subsection (b). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until twenty days after the complaint is unsealed and served upon the defendant in accordance with the Hawaii rules of civil procedure. **(d)** Before the expiration of the sixty-day period or any extension obtained, the county shall: **(1)** Proceed with the action, in which case the action shall be conducted by the county and the seal shall be lifted; or

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	(2) Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action and the seal shall be lifted. **(e)** When a person brings an action under this section, no person other than the county may intervene or bring a related action based on the facts underlying the pending action. **HISTORY:** *L 2001, c 227*, § 1 **§ 46-177. Awards to qui tam plaintiffs.** *http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0177.htm* **(a)** If a county proceeds with an action brought by a person under section 46-175, the person shall receive at least fifteen per cent but not more than twenty-five per cent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award sums as it considers appropriate, but in no case more than ten per cent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under this subsection shall be made from the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant. **(b)** If a county proceeds with an action brought under section 46-171, the county may file its own complaint or amend the complaint of a person who has brought an action under section 46-171 to clarify or add detail to the claims in which the county is intervening and to add any additional claims with respect to which the county contends it is entitled to relief. For statute of limitations purposes, any such pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the county arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person. **(c)** If the county does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five per cent and not more than thirty per cent of the proceeds of the action or settlement and shall be paid out of the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant. **(d)** Regardless of whether the county proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 46-171 upon which the action was brought, then the court, to the extent the court considers appropriate, may reduce the share of the proceeds of the action that the person would otherwise receive under subsection (a), taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of section 46-171, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of the county to continue the action. **(e)** If the county does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was frivolous, vexatious, or brought primarily for purposes of harassment. **(f)** In no event may a person bring an action under section 46-175: **(1)** Against any elected official of the county, if the action is based on evidence or information known to the county. For purposes of this section, evidence or information known only to the person or persons against whom an action is brought shall not be considered to be known to the county; or **(2)** That is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the county is already a party. **HISTORY:** *L 2001, c 227*, § 1; am *L 2012, c 294*, § 3, effective July 9, 2012. **HRS § 46-181 - Certain actions barred.** *http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0181.htm* **(a)** In no event may a person bring an action under this part that is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which a county is

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	already a party. **(b)** The court shall dismiss an action or claim under this part, unless opposed by a county, if the allegations or transactions alleged in the action or claim are substantially the same as those publicly disclosed: **(1)** In a criminal, civil, or administrative hearing in which a county or its agent is a party; **(2)** In a county council or other county report, hearing, audit, or investigation; or **(3)** By the news media, unless the action is brought by the county attorney or the person bringing the action is an original source of the information. **(c)** For purposes of this section, "original source" means an individual who: **(1)** Prior to public disclosure under subsection (b), has voluntarily disclosed to a county the information on which the allegations or transactions in a claim are based; or **(2)** Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to a county before filing an action under this part. **HISTORY:** *L 2012, c 294*, § 1, effective July 9, 2012.
	Whistle-blower Protections
	HRS § 661-30 - **Relief from retaliatory actions.** *http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0030.htm* **(a)** Notwithstanding any law to the contrary, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment, contract, or agency relationship because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under section 661-25 or other efforts to stop or address any conduct described in section 661-21(a). **(b)** Relief under subsection (a) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An action for relief from retaliatory actions under subsection (a) may be brought in the appropriate court of this State for the relief provided in this part. **(c)** An action for relief from retaliatory actions under subsection (a) shall be brought within three years of the retaliatory conduct upon which the action is based. **HISTORY:** *L 2012, c 294*, § 5, effective July 9, 2012. **HRS § 46-180 - Relief from retaliatory actions** *https://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/HRS0046/HRS_0046-0180.htm* **(a)** Notwithstanding any law to the contrary, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment, contract, or agency relationship because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under section 46-175 or other efforts to stop or address any conduct described in section 46-171(a). **(b)** Relief under subsection (a) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An action for relief from retaliatory actions under subsection (a)

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	may be brought in the appropriate court of this State for the relief provided in this part. **(c)** An action for relief from retaliatory actions under subsection (a) shall be brought within three years of the retaliatory conduct upon which the action is based. **HISTORY:** *L 2012, c 294*, § 1, effective July 9, 2012. HRS § 378-61 et seq **Whistleblower Protection Act** *http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0061.htm* As used in this part: "Employee" means a person who performs a service for wages or other remuneration under a contract for hire, written or oral, express or implied. Employee includes a person employed by the State or a political subdivision of the State. "Employer" means a person who has one or more employees. Employer includes an agent of an employer or of the State or a political subdivision of the State. "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity. "Public body" means: **(1)** A state officer, employee, agency, department, division, bureau, board, commission, committee, council, authority, or other body in the executive branch of state government; **(2)** An agency, board, commission, committee, council, member, or employee of the legislative branch of the state government; **(3)** A county, city, intercounty, intercity, or regional governing body, a council, special district, or municipal corporation, or a board, department, commission, committee, council, agency, or any member or employee thereof; **(4)** Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body; **(5)** A law enforcement agency or any member or employee of a law enforcement agency; or **(6)** The judiciary and any member or employee of the judiciary. "Public employee" means any employee of the State or any county, or the political subdivision and agencies of the State or any county, any employee under contract with the State or any county, any civil service employee, any probationary or provisional employee of the State or county, and any employee of any general contractor or subcontractor undertaking the execution of a contract with a governmental contracting agency, as defined in section 104-1. "Public employer" means the State and any county, the political subdivisions and agencies of the State and any county, and any general contractor or subcontractor undertaking the execution of a contract with a governmental contracting agency, as defined in section 104-1, and includes any agent thereof. **HISTORY:** L 1987, c 267, pt of § 1; am *L 2011, c 166*, § 5, effective June 27, 2011. **HRS § 378-62. Discharge of, threats to, or discrimination against employee for reporting violations of law.** *http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0062.htm*

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	An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because: **(1)** The employee, or a person acting on behalf of the employee, reports or is about to report to the employer, or reports or is about to report to a public body, verbally or in writing, a violation or a suspected violation of: **(A)** A law, rule, ordinance, or regulation, adopted pursuant to law of this State, a political subdivision of this State, or the United States; or **(B)** A contract executed by the State, a political subdivision of the State, or the United States, unless the employee knows that the report is false; or **(2)** An employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action. **HISTORY:** L 1987, c 267, pt of § 1; am *L 2002, c 56*, § 2.
Idaho IDAPA 16.05.07.000 et seq. **Idaho Code § 56-209h** Idaho Code § 56-227 I.C. § 41-293 Idaho Code § 56-227A Idaho Code § 56-227B Idaho Code § 18-2401 - 2421 Idaho Code § 6 - 2101 - 2109	**Criminal and Civil Penalties for False Claims and Statements** Idaho Other Helpful Information About Medicaid Fraud & Reporting Fraud *http://healthandwelfare.idaho.gov/AboutUs/Fraud-ReportPublicAssistanceFraud/tabid/136/Default.aspx* *https://www.ag.idaho.gov/office-resources/medicaid-fraud/* Idaho Code § 18-2401 – 2421 *https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH24/* **Idaho Code § 56-209h - Administrative remedies** (1) Definitions. For purposes of this section: (a) "Abuse" or "abusive" means provider practices that are inconsistent with sound fiscal, business, child care or medical practices, and result in an unnecessary cost to a public assistance program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a public assistance recipient. (b) "Claim" means any request or demand for payment, or document submitted to initiate payment, for items or services provided under a public assistance program, whether under a contract or otherwise. (c) "Fraud" or "fraudulent" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. (d) "Intentional program violation" means intentionally false or misleading action, omission or statement made in order to qualify as a provider or recipient in a public assistance program. (e) "Knowingly," "known" or "with knowledge" means that a person, with respect to information or an action: (i) Has actual knowledge of the information or action; or (ii) Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or (iii) Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (f) "Managing employee" means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization or agency. (g) "Medicaid fraud control unit" means that medicaid fraud control unit as provided for in *section 56-226, Idaho Code*. (h) "Ownership or control interest" means a person or entity that: (i) Has an ownership interest totaling twenty-five percent (25%) or more in an entity; or (ii) Is an officer or director of an entity that is organized as a corporation; or (iii) Is a partner in an entity that is organized as a partnership; or (iv) Is a managing member in an entity that is organized as a limited liability company. (i) "Provider" means an individual, organization, agency or other entity providing items or services under a public assistance program.

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	(j) "Public assistance program" means assistance for which provision is made in any federal or state law existing or hereafter enacted by the state of Idaho or the congress of the United States by which payments are made from the federal government to the state in aid, or in respect to payment by the state for welfare purposes to any category of needy person, and any other program of assistance for which provision for federal or state funds for aid may from time to time be made. (2) The department shall establish and operate an administrative fraud control program to enforce violations of the provisions of this chapter and of the state plan pursuant to subchapters XIX*1* and XXI*2*, chapter 7, title 42, U.S.C., that are outside the scope of the duties of the medicaid fraud control unit and to render and receive referrals from and to said unit. (3) Review of documentation of services. All claims submitted by providers for payment are subject to prepayment and postpayment review as designated by rule. Except as otherwise provided by rule, providers shall generate documentation at the time of service sufficient to support each claim, and shall retain the documentation for a minimum of five (5) years from the date the item or service was provided. The department or authorized agent shall be given immediate access to such documentation upon written request. (4) Immediate action. In the event that the department identifies a suspected case of fraud or abuse and the department has reason to believe that payments made during the investigation may be difficult or impractical to recover, the department may suspend or withhold payments to the provider pending investigation. In the event that the department identifies a suspected case of fraud or abuse and it determines that it is necessary to prevent or avoid immediate danger to the public health or safety, the department may summarily suspend a provider agreement pending investigation. When payments have been suspended or withheld or a provider agreement suspended pending investigation, the department shall provide for a hearing within thirty (30) days of receipt of any duly filed notice of appeal. (5) Recovery of payments. Upon referral of a matter from the medicaid fraud control unit, or if it is determined by the department that any condition of payment contained in rule, regulation, statute, or provider agreement was not met, the department may initiate administrative proceedings to recover any payments made for items or services under any public assistance contract or provider agreement the individual or entity has with the department. Interest shall accrue on overpayments at the statutory rate set forth in *section 28-22-104, Idaho Code*, from the date of final determination of the amount owed for items or services until the date of recovery. (6) Provider status. The department may terminate the provider agreement or otherwise deny provider status to any individual or entity who: (a) Submits a claim with knowledge that the claim is incorrect, including reporting costs as allowable which were known to be disallowed in a previous audit, unless the provider clearly indicates that the item is being claimed to establish the basis for an appeal and each disputed item and amount is specifically identified; or (b) Submits a fraudulent claim; or (c) Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the department; or (d) Submits a claim for an item or service known to be medically unnecessary; or (e) Fails to provide, upon written request by the department, immediate access to documentation required to be maintained; or (f) Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments or other public assistance program payments; or (g) Knowingly violates any material term or condition of its provider agreement; or (h) Has failed to repay, or was a "managing employee" or had an "ownership or control interest" in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation or provider agreement; or (i) Has been found, or was a "managing employee" in any entity that has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of health care or public assistance items or services; or (j) Fails to meet the qualifications specifically required by rule or by any applicable licensing board. Any individual or entity denied provider status under this section may be precluded from participating as a provider in any public assistance program for up to five (5) years from the date the department's action becomes final. (7) The department must refer all cases of suspected medicaid provider fraud to the medicaid fraud control unit and shall promptly comply with any request from the medicaid fraud control unit for access to and free copies of any records or information kept by the department or its contractors, computerized data stored by the department or its contractors, and any information kept by providers to which the department is authorized access by law. (8) Civil monetary penalties. The department may also assess civil monetary penalties against a provider and any officer, director, owner, and/or managing employee of a provider in the circumstances listed in paragraphs (a) and (b) of this subsection. The penalties provided for in this subsection are intended to be remedial, recovering, at a minimum, costs of investigation and administrative review, and placing the costs associated with noncompliance on the offending provider. The department shall promulgate rules clarifying the methodology used when computing and assessing a civil monetary penalty. (a) For conduct identified in subsection (6)(a) through (i) of this section, the amount of the penalties shall be up to one thousand dollars ($1,000) for each item or service improperly claimed, except that in the case of multiple penalties the department may reduce the penalties to not less than ten percent (10%) of the amount of each item or service improperly claimed if an amount can be readily determined. Each line item of a claim, or cost on a cost report is considered a separate claim. (b) For failing to perform required background checks or failing to meet required timelines for completion of background checks, the amount of the penalty shall be five hundred dollars ($500) for each month worked for each staff person for whom the background check was not performed or not timely performed up to a maximum of five thousand dollars ($5,000) per month. A partial month is considered a full month for purposes of determining the amount of the penalty.

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	(9) Exclusion. Any individual or entity convicted of a criminal offense related to the delivery of an item or service under any state or federal program shall be excluded from program participation as a medicaid provider for a period of not less than ten (10) years. Unless otherwise provided in this section or required by federal law, the department may exclude any individual or entity for a period of not less than one (1) year for any conduct for which the secretary of the department of health and human services or designee could exclude an individual or entity. (10) Sanction of individuals or entities. The department may sanction individuals or entities by barring them from public assistance programs for intentional program violations where the federal law allows sanctioning individuals from receiving assistance. Individuals or entities who are determined to have committed an intentional program violation will be sanctioned from receiving public assistance for a period of twelve (12) months for the first violation, twenty-four (24) months for the second violation and permanently for the third violation. (11) Individuals or entities subject to administrative remedies as described in subsections (4) through (10) of this section shall be provided the opportunity to appeal pursuant to chapter 52, title 67, Idaho Code, and the department's rules for contested cases. (12) Adoption of rules. The department shall promulgate such rules as are necessary to carry out the policies and purposes of this section. **Credits** *S.L. 1998, ch. 311, § 2; S.L. 2007, ch. 341, § 2, eff. July 1, 2007*; *S.L. 2008, ch. 187, § 1, eff. July 1, 2008*. Amended by *S.L. 2016, ch. 106, § 1, eff. July 1, 2016*. THE INVESTIGATION AND ENFORCEMENT OF FRAUD, ABUSE, AND MISCONDUCT *https://adminrules.idaho.gov/rules/current/16/160507.pdf* IDAPA 16.05.07.000 LEGAL AUTHORITY. Sections 56-202(b), 56-203(1), 56-203(2), 56-209, 56-209h, 56-227, 56-227A through D, *56-1001*, and *56-1003, Idaho Code*, authorize the Director to adopt rules regarding fraud, abuse, and misconduct of public assistance programs. (3-17-22) IDAPA 16.05.07.235 - CIVIL MONETARY PENALTIES. Under *Section 56-209h, Idaho Code*, the Department may assess civil monetary penalties against a provider, any officer, director, owner, and managing employee for conduct identified in *Idaho Code 56-209h(6)(a) through (j)*. (3-17-22) **Idaho Code § 56-227 - Fraudulent acts -- Penalty** (1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person in obtaining, by means of a willfully false statement or representation, material omission, or fraudulent devices, public assistance to which he is not entitled, or in an amount greater than that to which he is justly entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted to be so obtained. (2) Whoever sells, conveys, mortgages or otherwise disposes of his property, real or personal, or conceals his income or resources, for the purpose of rendering him eligible for public assistance, theretofore or thereafter applied for, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or so attempted to be obtained. Provided however, this provision shall not be construed to be more restrictive than federal or state provisions regarding the transfer of property for public assistance. (3) Every person who knowingly aids or abets any person in selling, conveying, mortgaging or otherwise disposing of his property, real or personal, or in concealing his income or resources for the purpose of rendering him eligible for public assistance, theretofore or thereafter applied for and received, to which he would not otherwise be entitled, shall be punished in the same manner and to the same extent as for larceny or theft of the money or value of the public assistance so obtained or attempted to be obtained. Provided however, this provision shall not apply to any person who communicates information or renders advice to another regarding federal or state provisions regarding the transfer of property for public assistance. (4) For the purpose of this section public assistance shall include the specific categories of assistance for which provision is made in any federal or state law existing or hereafter enacted by the congress of the United States or the state of Idaho by which payments are made from the federal government to the state in aid or in respect to payment by the state for welfare purposes to any category of needy person and any other program of assistance for which provision for federal or state funds for aid may from time to time be made. (5) The state department of health and welfare shall establish and operate a fraud control program to investigate suspected fraud relating to applications for public assistance benefits, and public assistance benefits received by individuals or entities. Such activities shall be those which do not fall under the authority of the medicaid fraud control unit as provided in *section 56-226, Idaho Code*. The department shall establish a procedure to coordinate information with prosecuting attorneys to prosecute offenders who commit fraudulent acts pursuant to this chapter. **Credits**

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	S.L. 1941, ch. 181, § 24-c; S.L. 1943, ch. 119, § 2; S.L. 1974, ch. 233, § 9; S.L. 1981, ch. 194, § 1; S.L. 1988, ch. 246, § 1; *S.L. 2002, ch. 369, § 2;* *S.L. 2007, ch. 341, § 5, eff. July 1, 2007*; *S.L. 2008, ch. 188, § 1, eff. July 1, 2008*. Amended by *S.L. 2013, ch. 143, § 1, eff. July 1, 2013*. **Idaho Code § 56-227A. Provider fraud – Criminal penalty** It shall be unlawful for any provider or person, knowingly, with intent to defraud another, by means of a false statement or representation or by deliberate concealment of any material fact, or any other fraudulent scheme or device, to: (a) Present or cause to be presented for allowance or payment any false or fraudulent claim for furnishing services or supplies; (b) Attempt to obtain or to obtain authorization for furnishing services or supplies; or (c) Attempt to obtain or to obtain compensation from public funds greater than that to which he is legally entitled for services or supplies furnished or purportedly furnished. Any provider or person who violates the provisions of this section shall be guilty of a felony and shall be subject to a term of imprisonment not to exceed fifteen (15) years, or a fine not to exceed fifteen thousand dollars ($15,000), or both, and shall be ordered to make restitution to the department or any other person for any financial loss sustained as a result of a violation of this section. Each instance of violation shall be considered a separate offense, and nothing in this section shall prohibit or preclude a provider or person from being prosecuted under any other provision of the criminal code. **Credits** S.L. 1977, ch. 226, § 2. Amended by *S.L. 2024, ch. 228, § 2, eff. July 1, 2024*. **Idaho Code § 56-227B. Provider fraud -- Damages** Any provider who knowingly with intent to defraud by means of false statement or representation, obtains compensation from public funds greater than that to which he is legally entitled for services or supplies furnished or purportedly furnished shall be liable for civil damages equal to three (3) times the amount by which any figure is falsely overstated. The director of the department of health and welfare or the attorney general shall have the right to cause legal action to be taken for the recovery of such damages when persuaded that a reimbursement claim for payment is falsely overstated. The burden of proof for such recovery action shall be that which is used in other civil actions for the recovery of damages. The remedy provided by this section shall be in addition to any other remedy provided by law. If any provider of services or supplies is required to refund or repay all or part of any payment received by said provider under the provisions of this section, said refund or repayment shall bear interest from the date payment was made to such provider to the date of said refund or repayment. Interest shall accrue at the rate of ten percent (10%) per annum. The prevailing party in an action, under this section shall be awarded costs and reasonable attorney's fees incurred in bringing or defending the action. Notwithstanding any other provision of the Idaho Code, all costs and attorney's fees awarded to the department of health and welfare or the attorney general pursuant to this section shall be deposited into the state general fund. **Credits** S.L. 1977, ch. 226, § 3; *S.L. 2007, ch. 341, § 6, eff. July 1, 2007*. PENAL CODE TITLE 18. CRIMES AND PUNISHMENTS CHAPTER 24. THEFT Idaho Code § 18-2401 - 2421 *https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH24/* I.C. § 41-293 **§ 41-293. Insurance fraud** *Currentness* Insurance fraud includes: (1)(a) Any person who, with the intent to defraud or deceive an insurer for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer, producer, practitioner or other person, any statement as part of, or in support of, a claim for payment or other benefit, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim; or (b) Any person who, with intent to defraud or deceive an insurer assists, abets, solicits, or conspires with another to prepare or make any statement that is intended to be presented to any insurer, producer, practitioner or other person, in connection with, or in support of, any claim for payment or other benefit, knowing that such statement contains false, incomplete, or misleading information concerning any fact or thing material to such claim;

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	(c) Any person who, with intent to defraud or deceive, presents or causes to be presented to or by an insurer, a producer, practitioner or other person, a false or altered statement material to an insurance transaction; (d) Any insurance producer or other person who, with intent to defraud or deceive, willfully takes premium money knowing that insurance coverage will not be effected; (e) Any practitioner or other person who willfully submits a false or altered statement, with the intent of deceiving an insurer or other person in connection with an insurance transaction or claim; (f) Anyone willfully making a false statement or material misrepresentation to an insurer, employer, practitioner or other person, with the intent to defraud or deceive an insurer or other person, to obtain or extend worker's compensation benefits; (g) Anyone who offers or accepts a direct or indirect inducement to file or solicits another person to file a false statement, with intent to defraud or deceive an insurer; (h) Any person who, with intent to defraud or deceive, transacts insurance of any kind or character, or transmits for a person other than himself an application for a policy of insurance, without proper licensing or after such license has been suspended or revoked; (i) Any practitioner or any other person who, with intent to defraud or deceive, employs, uses or acts as a runner for the purpose of submitting a claim containing false, incomplete, or misleading information concerning any fact or thing material to such claim; (j) Any employer or other person who, with intent to defraud or deceive, presents or causes to be presented to an insurer, producer or any other person or governmental agency any statement containing the number of employees, amount of payroll, job description or job title or any other statement material to worker's compensation insurance which contains false, misleading or incomplete information; or (k) Any person who, with intent to defraud or deceive, obstructs the director in the conduct of any authorized examination. (2) A fact, statement or representation is "material" if it includes any of the following: (a) Any fact which, if communicated to the producer, insurer, adjuster or representative thereof, would induce him to either decline insurance altogether or not accept it unless a higher premium is paid by the insured; (b) Any fact relating to a claim for insurance benefits which, if disclosed, would be a fair reason for rejecting a claim for insurance benefits; (c) Any fact, the knowledge or ignorance of which would naturally influence the insurer in making or refusing the contract, in estimating the degree or character of the risk, or in fixing the rate of premium; (d) Any fact, the knowledge or ignorance of which would naturally influence the insurer in accepting or rejecting a claim for insurance benefits or compensation, or in determining the amount of compensation or insurance benefits to be paid to the insured; or (e) Any fact that necessarily has some bearing on the subject matter of the insurance coverage or claim for benefits under an insurance contract. (3) Any offense committed by use of a telephone, any means of electronic communication or mail as provided by this chapter may be deemed to have been committed at the place from which the telephone call or electronic communication was made, or mail was sent, or the offense may be deemed to have been committed at the place at which the telephone call, electronic communication or mail was received. (4) Any violator of this section is guilty of a felony and shall be subject to a term of imprisonment not to exceed fifteen (15) years, or a fine not to exceed fifteen thousand dollars ($15,000), or both and shall be ordered to make restitution to the insurer or any other person for any financial loss sustained as a result of a violation of this section. Each instance of violation may be considered a separate offense. **Credits** S.L. 1981, ch. 23, § 3; *S.L. 1994, ch. 219, § 5*; *S.L. 1997, ch. 122, § 2*; *S.L. 2007, ch. 239, § 2, eff. July 1, 2007*.
	Qui Tam Actions & Remedies
	None
	Whistle-blower Protections
	This act is known as the **"Idaho Protection of Public Employees Act."** Idaho Code § 6-2102 *et seq* *https://legislature.idaho.gov/statutesrules/idstat/Title6/T6CH21/* Idaho Code § 6-2101. Legislative intent The legislature hereby finds, determines and declares that government constitutes a large proportion of the Idaho work force and that it is beneficial to the citizens of this state to protect the integrity of government by providing a legal cause of action for public employees who experience adverse action from their employer as a result of reporting waste and violations of a law, rule or regulation. **HISTORY:** *I.C., § 6-2101*, as added by *1994, ch. 100, § 1*, p. 226. **Idaho Code § 6-2103 - § 6-2103. Definitions** As used in this chapter:

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	(1) "Adverse action" means to discharge, threaten or otherwise discriminate against an employee in any manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions or privileges. (2) "Communicate" means a verbal or written report. (3) "Employee" means a person who performs a service for wages or other remuneration. (4) (a) "Employer" means the state of Idaho, or any political subdivision or governmental entity eligible to participate in the public employees retirement system, chapter 13, title 59, Idaho Code; (b) "Employer" includes an agent of an employer. (5) "Public body" means any of the following: (a) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution or any other body in the executive branch of state government; (b) An agency, board, commission, council, institution member or employee of the legislative branch of state government; (c) A county, city, town, regional governing body, council, school district, special district, municipal corporation, other political subdivision, board, department, commission, council, agency or any member or employee of them; (d) Any other body that is created by state or local authority, or any member or employee of that body; (e) A law enforcement agency or any member or employee of a law enforcement agency; and (f) The judiciary and any member or employee of the judiciary. **HISTORY:** *I.C., § 6-2103*, as added by *1994, ch. 100, § 1*, p. 226. Idaho Code § 6-2104 *§ 6-2104. **Reporting of governmental waste or violation of law -- Employer action*** I.C. § 6-2104 **§ 6-2104. Reporting of governmental waste or violation of law--Employer action** (1)(a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith the existence of any waste of public funds, property or manpower, or a violation or suspected violation of a law, rule or regulation adopted under the law of this state, a political subdivision of this state or the United States. Such communication shall be made at a time and in a manner that gives the employer reasonable opportunity to correct the waste or violation. (b) For purposes of paragraph (a) of this subsection, an employee communicates in good faith if there is a reasonable basis in fact for the communication. Good faith is lacking where the employee knew or reasonably ought to have known that the report is malicious, false or frivolous. (2)(a) An employer may not take adverse action against an employee because an employee in good faith participates or communicates information in good faith in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review concerning the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or the United States. (b) For purposes of paragraph (a) of this subsection, an employee participates or gives information in good faith if there is a reasonable basis in fact for the participation or the provision of the information. Good faith is lacking where the employee knew or reasonably ought to have known that the employee's participation or the information provided by the employee is malicious, false or frivolous.

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	(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law or a rule or regulation adopted under the authority of the laws of this state, political subdivision of this state or the United States. (4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document the existence of any waste of public funds, property or manpower, or a violation or suspected violation of any laws, rules or regulations. ***Credits*** *S.L. 1994, ch. 100, § 1.* Amended by *S.L. 2017, ch. 272, § 1, eff. July 1, 2017*; *S.L. 2020, ch. 295, § 1, eff. July 1, 2020*.
Illinois/ 740 ILCS 175/1, et seq.	**Criminal and Civil Penalties for False Claims and Statements** *Other Helpful Information About Medicaid Fraud & Reporting Fraud* https://hfs.illinois.gov/oig/reportfraud.html *https://www.dhs.state.il.us/page.aspx?item=97061* *https://hfs.illinois.gov/oig/sanctionslist.html* **CIVIL LIABILITIES** **Illinois False Claims Act.** *http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2058&ChapAct=740%26nbsp%3BILCS%26nbsp%3B175%2F&ChapterID=57&ChapterName=CIVIL+LIABILITIES&ActName=Whistleblower+Reward+and+Protection+Act%2E* 740 ILCS 175/2 Formerly cited as IL ST CH 127 ¶ 4102 **175/2. Definitions** *Currentness* § 2. Definitions. As used in this Act: (a) "State" means the State of Illinois; any agency of State government; the system of State colleges and universities, any school district, community college district, county, municipality, municipal corporation, unit of local government, and any combination of the above under an intergovernmental agreement that includes provisions for a governing body of the agency created by the agreement. (b) "Guard" means the Illinois National Guard. (c) "Investigation" means any inquiry conducted by any investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of this Act. (d) "Investigator" means a person who is charged by the Attorney General with the duty of conducting any investigation under this Act, or any officer or employee of the State acting under the direction and supervision of the Attorney General, in the course of an investigation. (e) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery. (f) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1) of Section 6. (g) "Product of discovery" includes: (1) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature; (2) any digest, analysis, selection, compilation, or derivation of any item listed in paragraph (1); and (3) any index or other manner of access to any item listed in paragraph (1). **Credits** *P.A. 87-662, § 2, eff. Jan. 1, 1992*. Amended by *P.A. 89-260, § 5, eff. Jan. 1, 1996*; *P.A. 91-760, § 75, eff. Jan. 1, 2001*; *P.A. 95-128, § 10, eff. Jan. 1, 2008*; *P.A. 96-1304, § 10, eff. July 27, 2010*; *P.A. 102-538, § 1120, eff. Aug. 20, 2021*; *P.A. 103-145, § 15, eff. Oct. 1, 2023*.

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	740 ILCS 175/3 **Formerly cited as IL ST CH 127 ¶ 4103** **175/3. False claims** *Currentness* § 3. False claims. (a) Liability for certain acts. (1) In general, any person who: (A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; (C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G); (D) has possession, custody, or control of property or money used, or to be used, by the State and knowingly delivers, or causes to be delivered, less than all the money or property; (E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the State and, intending to defraud the State, makes or delivers the receipt without completely knowing that the information on the receipt is true; (F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the State, or a member of the Guard, who lawfully may not sell or pledge property; or (G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the State, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the State, is liable to the State for a civil penalty of not less than the minimum amount and not more than the maximum amount allowed for a civil penalty for a violation of the federal False Claims Act (*31 U.S.C. 3729 et seq.*) as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (*28 U.S.C. 2461*), plus 3 times the amount of damages which the State sustains because of the act of that person. Notwithstanding any other provision, a person is liable to the State for a civil penalty of not less than $5,500 and not more than $11,000, plus 3 times the amount of damages which the State sustains because of the act of that person, when: (i) the civil action was brought by a private person pursuant to paragraph (1) of subsection (b) of Section 4; (ii) the State did not elect to intervene pursuant to paragraph (2) of subsection (b) of Section 4; (iii) the actual amount of the tax owed to the State is equal to or less than $50,000, which does not include interest, penalties, attorney's fees, costs, or any other amounts owed or paid pursuant to this Act; and (iv) the violation of this Act relates to or involves a false claim regarding a tax administered by the Department of Revenue, excluding claims, records, or statements made under the Property Tax Code. The penalties in this Section are intended to be remedial rather than punitive, and shall not preclude, nor be precluded by, a criminal prosecution for the same conduct. (2) A person violating this subsection shall also be liable to the State for the costs of a civil action brought to recover any such penalty or damages. (b) Definitions. For purposes of this Section: (1) The terms “knowing” and “knowingly”: (A) mean that a person, with respect to information: (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information, and (B) require no proof of specific intent to defraud. (2) The term “claim”: (A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the State has title to the money or property, that (i) is presented to an officer, employee, or agent of the State; or (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the State's behalf or to advance a State program or interest, and if the State: (I) provides or has provided any portion of the money or property requested or demanded; or (II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and (B) does not include requests or demands for money or property that the State has paid to an individual as compensation for State employment or as an income subsidy with no restrictions on that individual's use of the money or property. (3) The term “obligation” means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment. (4) The term “material” means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. (c) Exclusion. This Section does not apply to claims, records, or statements made under the Illinois Income Tax Act.*1*

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	Credits *P.A. 87-662, § 3, eff. Jan. 1, 1992*. **Amended by** *P.A. 94-1059, § 5-87, eff. July 31, 2006*; *P.A. 95-128, § 10, eff. Jan. 1, 2008*; *P.A. 96-1304, § 10, eff. July 27, 2010*; *P.A. 100-452, § 5, eff. Aug. 25, 2017*. . Chapter 225 PROFESSIONS AND OCCUPATIONS HEALTH Health Care Worker Self-Referral Act *225 ILCS 47/15 Definitions* ***225 ILCS 47/15*** ***47/15. Definitions*** Currentness § 15. Definitions. In this Act: (a) "Board" means the Health Facilities and Services Review Board. (b) "Entity" means any individual, partnership, firm, corporation, or other business that provides health services but does not include an individual who is a health care worker who provides professional services to an individual. (c) "Group practice" means a group of 2 or more health care workers legally organized as a partnership, professional corporation, not-for-profit corporation, faculty practice plan or a similar association in which: (1) each health care worker who is a member or employee or an independent contractor of the group provides substantially the full range of services that the health care worker routinely provides, including consultation, diagnosis, or treatment, through the use of office space, facilities, equipment, or personnel of the group; (2) the services of the health care workers are provided through the group, and payments received for health services are treated as receipts of the group; and (3) the overhead expenses and the income from the practice are distributed by methods previously determined by the group. (d) "Health care worker" means any individual licensed under the laws of this State to provide health services, including but not limited to: dentists licensed under the Illinois Dental Practice Act; dental hygienists licensed under the Illinois Dental Practice Act;*1* nurses and advanced practice registered nurses licensed under the Nurse Practice Act;*2* occupational therapists licensed under the Illinois Occupational Therapy Practice Act;*3* optometrists licensed under the Illinois Optometric Practice Act of 1987;*4* pharmacists licensed under the Pharmacy Practice Act;*5* physical therapists licensed under the Illinois Physical Therapy Act;*6* physicians licensed under the Medical Practice Act of 1987;*7* physician assistants licensed under the Physician Assistant Practice Act of 1987;*8* podiatric physicians licensed under the Podiatric Medical Practice Act of 1987;*9* clinical psychologists licensed under the Clinical Psychologist Licensing Act;*10* clinical social workers licensed under the Clinical Social Work and Social Work Practice Act;*11* speech-language pathologists and audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act;*12* or hearing instrument dispensers licensed under the Hearing Instrument Consumer Protection Act,*13* or any of their successor Acts. (e) "Health services" means health care procedures and services provided by or through a health care worker. (f) "Immediate family member" means a health care worker's spouse, child, child's spouse, or a parent.

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	(g) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments except that investment interest for purposes of Section 20 does not include interest in a hospital licensed under the laws of the State of Illinois. (h) "Investor" means an individual or entity directly or indirectly owning a legal or beneficial ownership or investment interest, (such as through an immediate family member, trust, or another entity related to the investor). (i) "Office practice" includes the facility or facilities at which a health care worker, on an ongoing basis, provides or supervises the provision of professional health services to individuals. (j) "Referral" means any referral of a patient for health services, including, without limitation: (1) The forwarding of a patient by one health care worker to another health care worker or to an entity outside the health care worker's office practice or group practice that provides health services. (2) The request or establishment by a health care worker of a plan of care outside the health care worker's office practice or group practice that includes the provision of any health services. *Credits* P.A. 87-1207, § 15, eff. Jan. 1, 1993. *Amended by* P.A. 89-72, § 15, eff. Dec. 31, 1995; P.A. 90-742, § 15, eff. Aug. 13, 1998; P.A. 95-639, § 115, eff. Oct. 5, 2007; P.A. 95-689, § 55, eff. Oct. 29, 2007; P.A. 95-876, § 235, eff. Aug. 21, 2008; P.A. 96-31, § 55, eff. June 30, 2009; P.A. 98-214, § 36, eff. Aug. 9, 2013; P.A. 100-513, § 150, eff. Jan. 1, 2018. Chapter 20 EXECUTIVE BRANCH DEPARTMENT OF PROFESSIONAL REGULATION Civil Administrative Code of Illinois Article 2105. Department of Professional Regulation *20 ILCS 2105/2105-170* ***2105/2105-170. Health care workers; automatic suspension of license*** Currentness § 2105-170. Health care workers; automatic suspension of license. A health care worker, as defined by the Health Care Worker Self-Referral Act, licensed by the Department shall be automatically and indefinitely suspended if the licensee has either been convicted of or has entered a plea of guilty or nolo contendere in a criminal prosecution to a criminal health care or criminal insurance fraud offense requiring intent under the laws of the State, the laws of any other state, or the laws of the United States of America, including, but not limited to, criminal Medicare or Medicaid fraud. A certified copy of the conviction or judgment shall be the basis for the suspension. If a licensee requests a hearing, then the sole purpose of the hearing shall be limited to the length of the suspension of the licensee's license, as the conviction or judgment is a matter of record and may not be challenged. *Credits* *Laws 1917, p. 2, § 2105-170, added by* P.A. 99-211, § 5, eff. Jan. 1, 2016. *Amended by* P.A. 100-262, § 5, eff. Aug. 22, 2017.

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	Qui Tam Actions & Remedies
	740 ILCS 175/4 Civil actions for false claims. *https://ilga.gov/legislation/ilcs/documents/074001750K4.htm* 740 ILCS 175/4 Formerly cited as IL ST CH 127 ¶ 4104 **175/4. Civil actions for false claims** *Currentness* § 4. Civil actions for false claims. **(a) Responsibilities of the Attorney General**. The Attorney General shall diligently investigate a civil violation under Section 3. If the Attorney General finds that a person violated or is violating Section 3, the Attorney General may bring a civil action under this Section against the person. The State shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred by the Attorney General, including reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements. **(b) Actions by private persons.** (1) A person may bring a civil action for a violation of Section 3 for the person and for the State. The action shall be brought in the name of the State. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting. (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the State. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information. (3) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this Section until 20 days after the complaint is unsealed and served upon the defendant. (4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the State shall: (A) proceed with the action, in which case the action shall be conducted by the State; or (B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action. (5) When a person brings an action under this subsection (b), no person other than the State may intervene or bring a related action based on the facts underlying the pending action. **(c) Rights of the parties to Qui Tam actions.** (1) If the State proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2). (2)(A) The State may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the State of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion. (B) The State may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. (C) Upon a showing by the State that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the State's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as: (i) limiting the number of witnesses the person may call: (ii) limiting the length of the testimony of such witnesses; (iii) limiting the person's cross-examination of witnesses; or (iv) otherwise limiting the participation by the person in the litigation. (D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation. (3) If the State elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the State's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the State to intervene at a later date upon a showing of good cause.

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	(4) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the person initiating the action would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (5) Notwithstanding subsection (b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this Section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this Section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review. **(d) Award to Qui Tam plaintiff.** (1) If the State proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15% but not more than 25% of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Auditor General's report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10% of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph (1) shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. The State shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred by the Attorney General, including reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements. (2) If the State does not proceed with an action under this Section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25% and not more than 30% of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements. (3) Whether or not the State proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of Section 3 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection (d), taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of Section 3, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the State to continue the action, represented by the Attorney General. (4) If the State does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. **(e) Certain actions barred.** (1) No court shall have jurisdiction over an action brought by a former or present member of the Guard under subsection (b) of this Section against a member of the Guard arising out of such person's service in the Guard. (2)(A) No court shall have jurisdiction over an action brought under subsection (b) against a member of the General Assembly, a member of the judiciary, or an exempt official if the action is based on evidence or information known to the State when the action was brought. (B) For purposes of this paragraph (2), "exempt official" means any of the following officials in State service: directors of departments established under the Civil Administrative Code of Illinois,/ the Adjutant General, the Assistant Adjutant General, the Director of the State Emergency Services and Disaster Agency, members of the boards and commissions, and all other positions appointed by the Governor by and with the consent of the Senate. (3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party. (4)(A) The court shall dismiss an action or claim under this Section, unless opposed by the State, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed: (i) in a criminal, civil, or administrative hearing in which the State or its agent is a party; (ii) in a State legislative, State Auditor General, or other State report, hearing, audit, or investigation; or (iii) from the news media,

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	unless the action is brought by the Attorney General or the person bringing the action is an original source of the information. (B) For purposes of this paragraph (4), "original source" means an individual who either (i) prior to a public disclosure under subparagraph (A) of this paragraph (4), has voluntarily disclosed to the State the information on which allegations or transactions in a claim are based, or (ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the State before filing an action under this Section. **(f) State not liable for certain expenses.** The State is not liable for expenses which a person incurs in bringing an action under this Section. **(g) Relief from retaliatory actions.** (1) In general, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this Section or other efforts to stop one or more violations of this Act. (2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection (g) may be brought in the appropriate circuit court for the relief provided in this subsection (g). (3) A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred. **Credits** *P.A. 87-662, § 4, eff. Jan. 1, 1992*. Amended by *P.A. 89-260, § 5, eff. Jan. 1, 1996*; *P.A. 96-1304, § 10, eff. July 27, 2010*; *P.A. 97-978, § 5, eff. Aug. 17, 2012*; *P.A. 102-538, § 1120, eff. Aug. 20, 2021*; *P.A. 103-145, § 15, eff. Oct. 1, 2023*.
	Whistle-blower Protections
	740 ILCS 175/4 **Whistleblower Reward and Protection Act,** *http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2058&ChapAct=740%26nbsp%3BILCS%26nbsp%3B175%2F&ChapterID=57&ChapterName=CIVIL+LIABILITIES&ActName=Whistleblower+Reward+and+Protection+Act%2E* § 740 ILCS 175/4. Sec. 4. Civil actions for false claims. https://ilga.gov/legislation/ilcs/documents/074001750K4.htm (g) Relief from retaliatory actions. **g) Relief from retaliatory actions.** (1) In general, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this Section or other efforts to stop one or more violations of this Act. (2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection (g) may be brought in the appropriate circuit court for the relief provided in this subsection (g). (3) A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred. **Credits** *P.A. 87-662, § 4, eff. Jan. 1, 1992*. Amended by *P.A. 89-260, § 5, eff. Jan. 1, 1996*; *P.A. 96-1304, § 10, eff. July 27, 2010*; *P.A. 97-978, § 5, eff. Aug. 17, 2012*; *P.A. 102-538, § 1120, eff. Aug. 20, 2021*; *P.A. 103-145, § 15, eff. Oct. 1, 2023*.
Louisiana/ La. R.S. 14:70.1 La. R.S. 22:1923	**Criminal and Civil Penalties for False Claims and Statements**
	Other Helpful Information About Medicaid Fraud & Reporting Fraud *http://ldh.la.gov/index.cfm/page/219* *https://www.lamedicaid.com/provweb1/about_medicaid/fraud.htm* *https://ldh.la.gov/assets/medicaid/StatePlan/Sec4/Attachment4.42A.pdf*

State /Citation	False Claims Laws
La. R.S. 46:437.1 *et seq* La. R.S. 46:438.3 et seq. La. R.S. 46:439.1 et seq. La. R.S. 46:440.3	La. R.S. 14:70.1 -. Medicaid fraud **LSA-R.S. 14:70.1** **§ 70.1. Medicaid fraud** ***https://www.legis.la.gov/legis/Law.aspx?d=78639*** *Currentness* A. The crime of Medicaid fraud is the act of any person who, with intent to defraud the state or any person or entity through any medical assistance program created under the federal Social Security Act and administered by the Louisiana Department of Health or any other state agency, does any of the following: (1) Presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise. (2) Knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise. (3) Knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise. B. Whoever commits the crime of Medicaid fraud shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than twenty thousand dollars, or both. C. In addition to the venue established by *Code of Criminal Procedure Articles 611* and *614*, venue shall also be appropriate in the Nineteenth Judicial District Court, parish of East Baton Rouge. **Credits** **Added by Acts 1979, No. 301, § 1. Amended by *Acts 1989, No. 300, § 1, eff. July 1, 1989*; *Acts 1997, No. 1018, § 1*; *Acts 2001, No. 403, § 1, eff. June 15, 2001*; *Acts 2015, No. 138, § 1, eff. June 19, 2015*.** TITLE 22. INSURANCE CHAPTER 7. FRAUD AND UNFAIR TRADE PRACTICES PART 2. INSURANCE FRAUD *https://www.legis.la.gov/legis/Law.aspx?d=509061* La. R.S. 22:1923 - Definitions LSA-R.S. 22:1923 LSA-R.S. 22:1923 Formerly cited as LA R.S. 22:1242 **§ 1923. Definitions** *Currentness* As used in this Part, the following terms have the meanings indicated in this Section: (1) "Claim" shall mean any request or demand for payment or benefit, whether paid or not, made by a person either in writing or filed electronically. (2) "Fraudulent insurance act" include but is not limited to acts or omissions committed by any person who, knowingly and with intent to defraud, does any of the following: (a) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, reinsurer, purported insurer or reinsurer, producer, or any agent thereof, any oral or written statement which he knows to contain materially false information as part of, or in support of, or denial of, or concerning any fact material to or conceals any information concerning any fact material to the following: (i) An application for the issuance of any insurance policy. (ii) The rating of any insurance policy. (iii) A claim for payment or benefit pursuant to any insurance policy. (iv) Premiums paid on any insurance policy. (v) Payments made in accordance with the terms of any insurance policy. (vi) An application for certificate of authority or the application for a certificate of authority by a health insurer that has ceased writing health and accident insurance in the state within the prior five years. (vii) The financial condition of any insurer, reinsurer, purported insurer or reinsurer. (viii) The acquisition of any insurer or reinsurer. (b) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer, reinsurer, or other entity regulated under the insurance laws of this state.

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	(c) Removes or attempts to remove the assets or record of assets, transactions, and affairs of such material part thereof, from the home office or other place of business of the insurer, reinsurer, or other entity regulated under the insurance laws of this state, or from the place of safekeeping of the insurer, reinsurer, or other entity regulated under the laws of this state, or who conceals or attempts to conceal the same from the department. (d) Diverts, attempts to divert, or conspires to divert funds of an insurer, reinsurer, or other entity regulated under the laws of this state, or other persons in connection with: (i) The transaction of insurance or reinsurance. (ii) The conduct of business activities by an insurer, reinsurer, or other entity regulated by the insurance laws of this state. (iii) The formation, acquisition, or dissolution of an insurer, reinsurer, or other entity regulated under the insurance laws of this state. (e) Supplies false or fraudulent material information pertaining to any document or statement required by the Department of Insurance. (f) Commits any fraudulent viatical settlement act, as defined by *R.S. 22:1791*. (g) Solicits or accepts new or renewal insurance risks by or for an unauthorized insurer, except as provided by Subpart O of Part I of Chapter 2 of this Title, *R.S. 22:431 et seq.*, and Part III of this Chapter, *R.S. 22:1941 et seq.* (h) Manufactures, sells, distributes, presents, or causes to be presented a fraudulent proof of insurance card or document. (i) Alters a legitimate proof of insurance card or document. (j) Presents, causes to be presented, or prepares with the knowledge or belief that it will be presented to a self-insured governmental entity any oral or written statement which he knows to contain materially false information as part of, in support of, denial of, or concerning any fact material to or conceals any information concerning any fact material to any claim for payment under such self-insured governmental entity's loss fund or risk pool. For the purposes of this Subparagraph, "self-insured governmental entity" shall mean any agency of the state, political subdivision of the state, or agency thereof, or consortium of governmental entities that maintains a self-insured loss fund or risk pool. (k) Impersonates an insurance company, or a representative of an insurance company, without the authorization or consent of the insurance company for the purpose of executing a scheme or artifice to defraud a person. (l) Impersonates another person or entity, whether real or fictitious, and purports himself to have the authority to direct healthcare treatment for the purpose of executing a scheme or artifice to defraud a person. (m) Receives money or any other thing of value from any person, firm, or entity as a means of compensation for the acts of solicitation or criminal conspiracy done for the purpose of executing a scheme or artifice to defraud a person. (n) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to the Property Insurance Association of Louisiana, any written statement which he knows to contain materially false information in connection with the grading by the Property Insurance Association of Louisiana of a municipality or fire district. (o) Acts in violation of any of the following provisions of law related to public adjusters and public adjusting: (i) *R.S. 22:1693(B)*. (ii) *R.S. 22:1703*. (iii) *R.S. 22:1704*. (iv) *R.S. 22:1705*. (v) *R.S. 22:1706*. **(p) Presents to an insurer or insured a statement, estimate, invoice, bid, proposal, proof of loss, or any other document that misrepresents the scope of damages or costs of repairs associated with a property insurance claim.** (3) "Statement" includes but is not limited to any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, test results, x-rays, or other evidence of loss, injury, or expense. **Credits** Renumbered from *R.S. 22:1242* by *Acts 2008, No. 415, § 1, eff. Jan. 1, 2009*. Added by *Acts 1992, No. 707, § 2*. Amended by *Acts 1993, No. 663, § 2, eff. June 16, 1993*; *Acts 2004, No. 498, § 1*; *Acts 2008, No. 15, § 1*; *Acts 2011, No. 8, § 1, eff. June 7, 2011*; *Acts 2012, No. 271, § 1*; *Acts 2012, No. 862, § 1*; *Acts 2014, No. 116, § 1*; *Acts 2016, No. 4, § 1*; *Acts 2019, No. 83, § 1, eff. July 1, 2019*.; 2024 La. Sess. Law Serv. Act 389 (H.B. 651) **ACT NO. 236** **H.B. No. 791 (Substitute for House Bill No. 304 by Representative Braud)** **SLEDGE JEANSONNE LOUISIANA INSURANCE FRAUD PREVENTION ACT** BY REPRESENTATIVE BRAUD AN ACT to repeal R.S. 22:1931.13, relative to the Sledge Jeansonne Louisiana Insurance Fraud Prevention Act; to repeal the termination provision of the Act; and to provide for an effective date. Be it enacted by the Legislature of Louisiana: << Repealed: LA R.S. 22:1931.13 >> Section 1. R.S. 22:1931.13 is hereby repealed in its entirety.

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	Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval. Approved May 23, 2024. https://www.legis.la.gov/legis/Law.aspx?d=509068 LOUISIANA REVISED STATUTES TITLE 22. INSURANCE CHAPTER 7. FRAUD AND UNFAIR TRADE PRACTICES PART 2-A. SLEDGE JEANSONNE LOUISIANA INSURANCE FRAUD PREVENTION ACT ***La. R.S. 22:1931*** **- Legislative findings; short title** A. The legislature finds that to protect the health, safety, and welfare of the citizens of this state, the attorney general of Louisiana and his assistants shall be agents of this state with the ability, authority, and resources to pursue civil monetary penalties, liquidated damages, or other remedies to protect the integrity of the insurance industry from persons who engage in fraud, misrepresentation, abuse, or other illegal practices, as further provided in this Part, in order to obtain payments to which these insurance providers or persons are not entitled. B. On June 7, 2011, Kim Sledge and Rhett Jeansonne were murdered while performing their duties as insurance fraud investigators for the Louisiana Department of Insurance. The tragedy of their loss is profound to their families, coworkers, and the citizens of this state they honorably served. C. This Part shall be known and may be cited as the "Sledge Jeansonne Louisiana Insurance Fraud Prevention Act". **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.1*** **- Definitions** As used in this Part the following terms shall have the following meanings unless a different meaning is clearly required by context: (1) "Agent" means a person who is employed by or has a contractual relationship with another person or who acts on behalf of that person. (2) "Attorney general" means the attorney general for the state of Louisiana. (3) "Department" means the Department of Insurance. (4) "Insurer" means any person or other entity authorized to transact and transacting insurance business in this state. Notwithstanding any contrary provisions of *R.S. 22:242(7)* or any other law, regulation, or definition contained in this Code, a health maintenance organization shall be deemed an insurer for purposes of this Part. (5) "Knowing" or "knowingly" means that the person has actual knowledge of the falsity of the information or that the person acts in deliberate ignorance or reckless disregard of the truth or falsity of the information. (6) "Order" means a final order imposed pursuant to a civil or criminal adjudication. (7) "Person" means any natural or juridical entity or agent thereof as defined in federal or state law furnishing or claiming to furnish a good, service, or supply who is compensated with insurance proceeds. (8) "P.O.S.T.- certified" means peace officer standards and training certified as established by the Louisiana Peace Officer Standards and Training Council. (9) "Property" means any and all property, movable and immovable, corporeal and incorporeal. (10) "Recovery" means the recovery of attempted benefits pursued, overpayments, damages, fines, penalties, costs, expenses, restitution, attorney fees, interest, or settlement amounts. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.2*** **- Prescription** A. No action brought pursuant to this Part shall be instituted later than ten years after the date upon which the alleged violation occurred. For violations involving a scheme or course of conduct, no action pursuant to this Part shall be instituted more than ten years after the latest component of the scheme or course of conduct occurred.

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	B. To the extent that the conduct giving rise to the cause of action involves the provision of services, supplies, merchandise, or benefits of a medical assistance program administered by the Department of Health and Hospitals, including any medical assistance programs administered by the state pursuant to *42 U.S.C. 1396* et seq., the provisions of this Part shall not apply. C. An action by a prevailing defendant to recover costs, expenses, fees, and attorney fees pursuant to *R.S. 22:1931.3* may be brought no later than sixty days after the rendering of a final nonappealable judgment. In the instance of a state criminal action, the action for recovery of the civil monetary penalty shall be brought within one year of the date of the criminal conviction, final plea, or pre-trial diversion agreement. D. (1) In the case of a civil judgment rendered in federal court, the action for recovery of the civil monetary penalty pursuant to *R.S. 22:1931.6* may be brought after the judgment becomes enforceable and no later than one year after written notification to the attorney general of the enforceable judgment. (2) In the case of a criminal conviction, final plea, or pre-trial diversion agreement in federal court, the action for recovery pursuant to this Part may be brought after the conviction or plea is final and no later than one year after written notification to the attorney general of the rendering of the conviction or final plea. (3) Any action for recovery brought pursuant to the provisions of this Part shall be filed in the Nineteenth Judicial District Court for the parish of East Baton Rouge. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.3*** **- Civil actions authorized** A. No person shall knowingly commit any fraudulent insurance act as defined in *R.S. 22:1923* or violate any provision of *R.S. 22:1924*. B. The attorney general may institute a civil action in the Nineteenth Judicial District Court for the parish of East Baton Rouge to seek recovery from any person or persons who violate any provision of *R.S. 22:1924*. Each violation may be treated as a separate violation or may be combined into one violation at the option of the attorney general. C. An action by a prevailing defendant to recover costs, expenses, fees, and attorney fees shall be ancillary to and shall be brought and heard in the same court as the civil action brought pursuant to the provisions of Subsection B of this Section. D. A prevailing defendant may seek recovery only for costs, expenses, fees, and attorney fees if the court finds, following a contradictory hearing, that either of the following applies: (1) The action was instituted by the attorney general pursuant to Subsection A of this Section after it should have been determined by the attorney general to be frivolous, vexatious, or brought primarily for the purpose of harassment. (2) The attorney general proceeded with an action properly instituted pursuant to Subsection A of this Section after it should have been determined by the attorney general that proceeding would be frivolous, vexatious, or for the purpose of harassment. E. Any action brought pursuant to the provisions of this Part shall be filed in the Nineteenth Judicial District Court for the parish of East Baton Rouge. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.4*** **- Burden of proof; prima facie evidence; standard of review** A. The burden of proof in an action instituted pursuant to this Part shall be a preponderance of the evidence. B. Proof by a preponderance of the evidence of a violation of *R.S. 22:1924* shall be deemed to exist if the defendant has pled guilty or been convicted in any federal or state court when such charge arises out of circumstances which would be a violation of *R.S. 22:1924*. C. The submission of a certified or true copy of a conviction shall be prima facie evidence of the same. The submission of the bill of information or of the indictment and the minutes of the court shall be prima facie evidence as to the circumstances underlying a criminal conviction or final plea. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.5*** **- Civil monetary penalty**

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	A. In a civil action instituted in the Nineteenth Judicial District Court for the parish of East Baton Rouge pursuant to the provisions of this Part, the attorney general may seek a civil monetary penalty provided in *R.S. 22:1931.6* from any of the following: (1) Any person determined by a court of competent jurisdiction to have violated any provision of *R.S. 22:1924*. (2) Any person who has violated a settlement agreement entered into pursuant to this Part. (3) A person who has been found liable in a civil action filed in federal court pursuant to *18 U.S.C. 1347* et seq., or *42 U.S.C. 1320a-7*(a) or (b), et seq., or *31 U.S.C. 3729*. (4) A person who has entered a plea of guilty or nolo contendere to or has participated in a pre-trial diversion program for, or has been convicted in federal or state courts of criminal conduct arising out of circumstances which would constitute a violation of *R.S. 22:1924*. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.6*** **- Recovery** A. (1) Actual damages incurred as a result of a violation of the provisions of this Part shall be recovered only once by the insurer and shall not be waived by the court. (2) Except as provided in Paragraph (3) of this Subsection, actual damages shall equal the difference between the amount the insurer paid or would have paid and the amount that would have been due had not a violation of this Part occurred, plus interest at the maximum rate of judicial interest provided by *R.S. 13:4202*, from the date the damage occurred to the date of repayment. Actual damages shall include investigative expenses incurred by the insurer. (3) If the violator is a managed care healthcare provider contracted with a health insurer, actual damages shall be determined in accordance with the violator's provider agreement. B. Any person who is found to have violated *R.S. 22:1924* shall be subject to a civil fine in an amount not to exceed ten thousand dollars per violation. C. In addition to the actual damages provided in Subsection A of this Section and any civil fine imposed pursuant to Subsection B of this Section, a civil monetary penalty shall be imposed on the violator in an amount which equals three times the benefit pursued, including actual damages as a result of the violation. D. (1) Any person who is found to have violated this Part shall be liable for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorney fees. (2) All awards of costs, expenses, fees, and attorney fees are subject to review by the appellate court for abuse of discretion. (3) The attorney general shall promptly remit awards recovered for those costs, expenses, and fees incurred by the parties involved in the investigations or proceedings to the appropriate party. E. (1) Payment of interest on the amount of the civil fine imposed pursuant to Subsection B of this Section shall be at the maximum rate of legal interest provided by *R.S. 13:4202* from the date the damage occurred to the date of repayment. (2) Prior to the imposition of a civil monetary penalty, the court may consider whether extenuating circumstances exist as provided in *R.S. 22:1931.7*. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.7*** **- Waiver; extenuating circumstances** If a waiver is requested by the attorney general, the court may waive any recovery, except for actual damages, required to be imposed pursuant to the provisions of this Part provided all of the following extenuating circumstances are found to be applicable: (1) The violator furnished all the information known to him about the specific allegation to the department or attorney general no later than thirty days after the violator first obtained the information. (2) The violator cooperated fully with all federal or state investigations concerning the specific allegation. (3) At the time the violator furnished the information concerning the specific allegation to the department or the attorney general, no criminal, civil, or departmental investigation or proceeding had been commenced as to the alleged violation. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.

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	La. R.S. 22:1931.8 **- Deposit of monies collected** All monies collected pursuant to this Part shall be dedicated to and deposited into the Insurance Fraud Investigation Fund pursuant to *R.S. 40:1428(C)*. Forty percent of the monies deposited into the fund pursuant to this Part shall be allocated from the fund to the attorney general's office for purposes as provided by law. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.9*** **- Assessment reduction or recalculation** Except as provided in this Part, there shall be no reduction or recalculation in the Insurance Fraud Investigation Fund assessment allocation to the attorney general's office as provided in *R.S. 40:1428*. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.10*** **- Civil investigative demand** A. If the attorney general has information, evidence, or reason to believe that any person or entity may be in possession, custody, or control of any documentary material or information relevant to an investigation for a possible violation of this Part, he or any of his assistants may issue to the person or entity a civil investigative demand before the commencement of a civil proceeding to require the production of the documentary material for inspection or copying or reproduction, or the answering under oath and in writing of interrogatories. Any civil investigative demand issued pursuant to this Part shall state a general description of the subject matter being investigated and the applicable provisions of law constituting the alleged violation of this Part. A civil investigative demand for the production of documentary material shall describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified. A civil investigative demand for answers to written interrogatories shall set forth with specificity the written interrogatories to be answered. Each investigative demand shall set a return date of no earlier than twenty days after service of the demand upon the person or his representative or agent. B. A civil investigative demand issued pursuant to this Part may be served by the sheriff or a P.O.S. certified investigator employed by the attorney general or by the office of state police when the demand is issued to a resident or a domestic business entity found in this state. A civil investigative demand issued to a non-resident or a foreign business entity may be served using long-arm jurisdiction as provided for in the Code of Civil Procedure. C. Upon failure to comply with the civil investigative demand, the attorney general may apply to the district court having jurisdiction over the person to compel compliance with the civil investigative demand. D. Except as otherwise provided in this Section, no documentary material, answers to interrogatories, or copies thereof, while in the possession of the attorney general or any other agency assisting the attorney general with the matter under investigation, shall be available for examination by any person or entity except as determined by the attorney general and subject to any conditions imposed by him for effective enforcement of the laws of this state. Nothing in this Section shall be construed to prohibit or limit the attorney general from sharing any documentary material, answers to interrogatories, or copies thereof with the United States government, any other state government, any federal or state agency, or any person or entity that may be assisting in the investigation or prosecution of the subject matter of the civil investigative demand. E. The attorney general may use documentary material derived from information obtained pursuant to this Section, or copies of that material, as the attorney general determines necessary for the enforcement of the laws of this state, including presentation before a court. F. If any documentary material has been produced by any person or entity in the course of any investigation pursuant to a civil investigative demand and any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any state agency involving such material has been completed, or if no case or proceeding in which such material may be used has been commenced within a reasonable time after analysis of all documentary material and other information assembled in the course of the investigation, the attorney general, upon written request of the person or entity who produced the material, shall return to such person or entity any such material that has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding. G. "Documentary material" as used in this Section shall include but is not limited to all electronically-stored information including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations that would be subject to a request for production under *Federal Rule of Civil Procedure 34* as it exists now or is hereafter amended. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.11*** **- Investigative deposition** A. When the attorney general has information, evidence, or reason to believe that a violation of this Part has occurred, the attorney general may issue an investigative subpoena for deposition testimony to any person or entity that may have information or knowledge relevant to the matter under investigation, or for the purpose of revealing, identifying, or explaining documentary material or other physical evidence sought under *R.S. 22:1931.10*. The investigative subpoena shall contain a general description of the matter under investigation and a notice informing the prospective deponent of his right to counsel at the deposition with opportunity for cross-examination. The deposition shall be conducted at the principal place of business of the deponent, at his place of residence, at his domicile, or, if agreeable to the deponent, at some other place convenient to the

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	attorney general and the lawful and designated attorney representative of the deponent. The deposition shall be held at a date no earlier than seven days after the date on which demand is received, unless the attorney general or an assistant attorney general designated by the attorney general determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time. B. An investigative subpoena issued pursuant to this Part may be served by the sheriff or a P.O.S. certified investigator employed by the attorney general or by the office of state police when the demand is issued to a resident or a domestic business entity of this state. An investigative subpoena issued to a non-resident or a foreign business entity may be served using long-arm jurisdiction as provided for in the Code of Civil Procedure. C. When the investigative subpoena is issued to a business entity, the entity shall designate one or more officers, directors, or managing agents, who are responsible for complying with the subpoena on the entity's behalf, and may set forth, for each person designated, the matters on which he will testify. The persons so designated shall testify as to matters known or reasonably available to the organization. D. Upon failure of a person or entity to comply with the investigative subpoena, the attorney general may apply to the district court having jurisdiction over the person to compel compliance with the investigative subpoena. Failure to comply with a court order is punishable by contempt. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. ***La. R.S. 22:1931.12*** **- Asset forfeiture** A. In accordance with the provisions of Subsection B of this Section, the court may order the forfeiture of property to satisfy recovery pursuant to this Part under either of the following circumstances: (1) The court may order a person from whom recovery is due to forfeit property which constitutes or was derived directly or indirectly from gross proceeds traceable to the violation which forms the basis for the recovery. (2) If the attorney general shows that property was transferred to a third party to avoid paying recovery, or in an attempt to protect the property from forfeiture, the court may order the third party to forfeit the transferred property. B. Prior to the forfeiture of property, a contradictory hearing shall be held during which the attorney general shall prove by clear and convincing evidence that the property in question is subject to forfeiture pursuant to Subsection A of this Section. No such contradictory hearing shall be required if the owner of the property in question agrees to the forfeiture. C. If property is transferred to another person within six months prior to the occurrence or after the occurrence of the violation for which recovery is due or within six months prior to or after the institution of a criminal, civil, or departmental investigation or proceeding, it shall be prima facie evidence that the transfer was intended to avoid paying recovery or was an attempt to protect the property from forfeiture. D. The healthcare provider or other person from whom recovery is due shall have an affirmative duty to fully disclose all property and liabilities and all transfers of property which meet the criteria of Subsection C of this Section to the court and the attorney general. **HISTORY:** Acts 2012, No. 862, § 1, eff. Aug. 1, 2012. --- La. R.S. 46:437.1 This Part may be cited as the **"Medical Assistance Programs Integrity Law"** La. R.S. 46:437.3 – Definitions *https://www.legis.la.gov/legis/Law.aspx?d=100859* As used in this Part the following terms shall have the following meanings: (1) "Administrative adjudication" means adjudication and the adjudication process contained in the Administrative Procedure Act. (2) "Agent" means a person who is employed by or has a contractual relationship with a health care provider or who acts on behalf of the health care provider. (3) "Billing agent" means an agent who performs any or all of the health care provider's billing functions. (4) "Billing" or "bills" means submitting, or attempting to submit, a claim for goods, services, or supplies.

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	(5) "Claim" means any request or demand, whether under a contract or otherwise, for money or property, whether or not the state or department has title to the money or property, that is drawn in whole or in part on medical assistance programs funds that are either of the following: (a) Presented to an officer, employee, or agent of the state or department. (b) Made to a contractor, grantee, or other recipient, if the money or property is to be spent or used in any manner in any program administered by the department under the authority of federal or state law, rule, or regulation, and if the state or department does either of the following: (i) Provides or has provided any portion of the money or property requested or demanded. (ii) Reimburses the contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded. A claim may be based on costs or projected costs and includes any entry or omission in a cost report or similar document, book of account, or any other document which supports, or attempts to support, the claim. A claim may be made through electronic means if authorized by the department. Each claim may be treated as a separate claim or several claims may be combined to form one claim. (6) "Department" means the Department of Health and Hospitals. (7) "False or fraudulent claim" means a claim which the health care provider or his billing agent submits knowing the claim to be false, fictitious, untrue, or misleading in regard to any material information. "False or fraudulent claim" shall include a claim which is part of a pattern of incorrect submissions in regard to material information or which is otherwise part of a pattern in violation of applicable federal or state law or rule. (8) "Good, service, or supply" means any good, item, device, supply, or service for which a claim is made, or is attempted to be made, in whole or part. (9) "Health care provider" means any person furnishing or claiming to furnish a good, service, or supply under the medical assistance programs, any other person defined as a health care provider by federal or state law or by rule, and a provider-in-fact. (10) "Ineligible recipient" means an individual who is not eligible to receive health care through the medical assistance programs. (11) "Knowing" or "knowingly" means that the person has actual knowledge of the information or acts in deliberate ignorance or reckless disregard of the truth or falsity of the information. (12) "Managing employee" means a person who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operations of a health care provider. "Managing employee" shall include but is not limited to a chief executive officer, president, general manager, business manager, administrator, or director. (13) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. (14) "Medical assistance programs" means the Medical Assistance Program (Title XIX of the Social Security Act), commonly referred to as "Medicaid", and other programs operated by and funded in the department which provide payment to health care providers. (15) "Misrepresentation" means the knowing failure to truthfully or fully disclose any and all information required, or the concealment of any and all information required on a claim or a provider agreement or the making of a false or misleading statement to the department relative to the medical assistance programs. (16) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor, grantee, or licensor-licensee relationship, from a free-based or similar relationship, from statute or regulation, or from the retention of any overpayment. (17) "Order" means a final order imposed pursuant to an administrative adjudication.

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	(18) "Ownership interest" means the possession, directly or indirectly, of equity in the capital or the stock, or the right to share in the profits, of a health care provider. (19) "Payment" means the payment to a health care provider from medical assistance programs funds pursuant to a claim, or the attempt to seek payment for a claim. (20) "Property" means any and all property, movable and immovable, corporeal and incorporeal. (21) "Provider agreement" means a document which is required as a condition of enrollment or participation as a health care provider under the medical assistance programs. (22) "Provider-in-fact" means an agent who directly or indirectly participates in management decisions, has an ownership interest in the health care provider, or other persons defined as a provider-in-fact by federal or state law or by rule. (23) "Recipient" means an individual who is eligible to receive health care through the medical assistance programs. (24) "Recoupment" means recovery through the reduction, in whole or in part, of payment to a health care provider. (25) "Recovery" means the recovery of overpayments, damages, fines, penalties, costs, expenses, restitution, attorney fees, or interest or settlement amounts. (26) "Rule" means any rule or regulation promulgated by the department in accordance with the Administrative Procedure Act and any federal rule or regulation promulgated by the federal government in accordance with federal law. (27) "Sanction" shall include but is not limited to any or all of the following: (a) Recoupment. (b) Posting of bond, other security, or a combination thereof. (c) Exclusion as a health care provider. (d) A monetary penalty. (28) "Secretary" means the secretary of the Department of Health and Hospitals, or his authorized designee. (29) "Secretary or attorney general" means that either party is authorized to institute a proceeding or take other authorized action as provided in this Part pursuant to a memorandum of understanding between the two so as to notify the public as to whether the secretary or the attorney general is the deciding or controlling party in the proceeding or other authorized matter. (30) "Withhold payment" means to reduce or adjust the amount, in whole or in part, to be paid to a health care provider for a pending or future claim during the time of a criminal, civil, or departmental investigation or proceeding or claims review of the health care provider. **History:** *Acts 1997, No. 137*3, § 1; *Acts 2011, No. 185*, §§ 1, 3, eff. Aug. 15, 2011. **La. R.S. 46:437.4 - Claims review and administrative sanctions** *https://www.legis.la.gov/legis/Law.aspx?d=100860*

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	A. (1) Pursuant to rules and regulations promulgated in accordance with the Administrative Procedure Act, the secretary shall establish a process to review a claim made by a health care provider to determine if the claim should be or should have been paid as required by federal or state law or by rule. **(2)** Claims review may occur prior to or after payment is made to a health care provider. **(3)** The secretary may withhold payment to a health care provider during claims review if necessary to protect the fiscal integrity of the medical assistance programs. **(4)** The administrative rules promulgated by the department to implement the claim review process established pursuant to this Subsection shall provide for procedures to ensure that providers receive or retain the appropriate reimbursement amount for claims in which the department determines that services delivered have been improperly billed but were reasonable and necessary. **B.** The secretary may establish various types of administrative sanctions pursuant to rules and regulations promulgated in accordance with the Administrative Procedure Act which may be imposed on a health care provider or other person who violates any provision of this Part or any other applicable federal or state law or rule related to the medical assistance programs. **C. (1)** The department shall conduct a hearing in compliance with the Administrative Procedure Act at the request of a person who wishes to contest an administrative sanction imposed on him by the secretary. **(2)** A party aggrieved of an order may seek judicial review only in the Nineteenth Judicial District Court for the parish of East Baton Rouge. **(3)** Judicial review of the order shall be conducted in compliance with the Administrative Procedure Act. **D.** All state rules and regulations issued on or before August 15, 1997, shall be deemed to have been issued in compliance with and under the authority of this Section. **History:** *Acts 1997, No. 1373*, § 1; *Acts 2016, No. 467*, § 1, eff. Aug. 1, 2016. **La. R.S. 46:437.14 - Grounds for denial or revocation of enrollment** *https://www.legis.la.gov/legis/Law.aspx?d=100857* **A.** The department may deny or revoke enrollment in the medical assistance programs to a health care provider if any of the following are found to be applicable to the health care provider, his agent, a managing employee, or any person having an ownership interest equal to five percent or greater in the health care provider: **(1)** Misrepresentation. **(2)** Previous or current exclusion, suspension, termination from, or the involuntary withdrawing from participation in, the medical assistance programs, any other state's Medicaid program, Medicare, or any other public or private health or health insurance program. **(3)** Conviction under federal or state law of a criminal offense relating to the delivery of any goods, services, or supplies, including the performance of management or administrative services relating to the delivery of the goods, services, or supplies, under the medical assistance programs, any other state's Medicaid program, Medicare, or any other public or private health or health insurance program. **(4)** Conviction under federal or state law of a criminal offense relating to the neglect or abuse of a patient in connection with the delivery of any goods, services, or supplies. **(5)** Conviction under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance. **(6)** Conviction under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct. **(7)** Conviction under federal or state law of a criminal offense punishable by imprisonment of a year or more which involves moral turpitude, or acts against persons who are elderly, children, or persons with

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	infirmities. **(8)** Conviction under federal or state law of a criminal offense in connection with the interference or obstruction of any investigation into any criminal offense listed in Paragraphs (3) through (9) of this Subsection. **(9)** Sanction pursuant to a violation of federal or state laws or rules relative to the medical assistance programs, any other state's Medicaid program, Medicare, or any other public health care or health insurance program. **(10)** Violation of licensing or certification conditions or professional standards relating to the licensure or certification of health care providers or the required quality of goods, services, or supplies provided. **(11)** Failure to pay recovery properly assessed or pursuant to an approved repayment schedule under the medical assistance programs. **(12)** Failure to meet any condition of enrollment. **B.** Before signing a provider agreement and at the discretion of the department, a person may become eligible to receive payment from the medical assistance programs from the time the goods, services, or supplies were furnished, if: **(1)** The goods, services, or supplies provided were otherwise compensable. **(2)** The person met all other requirements of a health care provider at the time the goods, services, or supplies were provided. **(3)** The person agrees to abide by the provisions of the provider agreement to be effective from the date the goods, services, or supplies were provided. **History:** *Acts 1997, No. 1142*, § 2; *Acts 2014, No. 811*, § 24, eff. June 23, 2014. **La. R.S. 46:438.1 - Civil actions authorized** *https://www.legis.la.gov/legis/Law.aspx?d=100866* **A.** The secretary or the attorney general may institute a civil action in the courts of this state to seek recovery from persons who violate the provisions of this Part. The contract of employment of any private counsel, including fee amounts, and all final fees and costs, shall be a public record. **B.** An action to recover costs, expenses, fees, and attorney fees shall be ancillary to, and shall be brought and heard in the same court as, the civil action brought under the provision of Subsection A of this Section. **C. (1)** A prevailing defendant may seek recovery for costs, expenses, fees, and attorney fees only if the court finds, following a contradictory hearing, that either of the following apply: **(a)** The action was instituted by the secretary or attorney general pursuant to Subsection A of this Section after it should have been determined by the secretary or attorney general to be frivolous, vexatious, or brought primarily for the purpose of harassment. **(b)** The secretary or attorney general proceeded with the action instituted pursuant to Subsection A of this Section after it should have been determined by the secretary or attorney general that proceeding would be frivolous, vexatious, or for the purpose of harassment. **(2)** Recovery awarded to a prevailing defendant shall be awarded only for those reasonable, necessary, and proper costs, expenses, fees, and attorney fees actually incurred by the prevailing defendant. **D.** An action to recover costs, expenses, fees, and attorney fees may be brought no later than sixty days after the rendering of judgment by the district court, unless the district court decision is appealed. If the district court

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	decision is appealed, such action may be brought no later than sixty days after the rendering of the final opinion on appeal by the court of appeal or, if applicable, by the supreme court. **History:** HISTORY: *Acts 1997, No. 1373*, § 1; *Acts 2014, No. 711*, § 1, eff. Aug. 1, 2014. **La. R.S. 46:438.2 - Illegal remuneration** *https://www.legis.la.gov/legis/Law.aspx?d=100867* A. No person shall solicit, receive, offer, or pay any remuneration, including but not limited to kickbacks, bribes, rebates, or bed hold payments, directly or indirectly, overtly or covertly, in cash or in kind, for the following: (1) In return for referring an individual to a health care provider, or for referring an individual to another person for the purpose of referring an individual to a health care provider, for the furnishing or arranging to furnish any good, supply, or service for which payment may be made, in whole or in part, under the medical assistance programs. (2) In return for purchasing, leasing, or ordering, or for arranging for or recommending purchasing, leasing, or ordering, any good, supply, or service, or facility for which payment may be made, in whole or in part, under the medical assistance programs. (3) To a recipient of goods, services, or supplies, or his representative, for which payment may be made, in whole or in part, under the medical assistance programs. (4) To obtain a recipient list, number, name, or any other identifying information. B. An action brought pursuant to the provisions of this Section shall be instituted within one year of when the department knew that the prohibited conduct occurred. Such prohibited conduct shall be referred to in this Part as "illegal remuneration". C. By rules and regulations promulgated in accordance with the Administrative Procedure Act, the secretary may provide for additional "safe harbor" exceptions to which the provisions of this Section shall not apply. D. The following are "safe harbor" exceptions to which the provisions of this Section shall not apply: (1) A discount or other reduction in price obtained by a health care provider under the medical assistance programs if the reduction in price is properly disclosed to the department and is reflected in the claim made by the health care provider. (2) Any amount paid by an employer to an employee, who has a bona fide employment relationship with such employer, for the provision of covered goods, services, or supplies. (3) Any discount amount paid by a vendor of goods, services, or supplies to a person authorized to act as a purchasing agent for a group of health care providers who are furnishing goods, services, or supplies paid or reimbursed under the medical assistance programs provided the following criteria are met: (a) The person acting as the purchasing agent has a written contract with each health care provider specifying the amount to be paid to the purchasing agent, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such health care provider under the contract, or a combination of both. (b) The health care provider discloses the information contained in the required written contract to the secretary in such form or manner as required under rules and regulations promulgated by the secretary in accordance with the Administrative Procedure Act. (4) Any other "safe harbor" exception created by federal or state law or by rule. **History:** *Acts 1997, No. 1373,* § 1.

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	La. R.S. 46:438.3 - False or fraudulent claim; misrepresentation https://www.legis.la.gov/legis/Law.aspx?d=100868 A. No person shall knowingly present or cause to be presented a false or fraudulent claim. B. No person shall knowingly engage in misrepresentation or make, use, or cause to be made or used, a false record or statement material to a false or fraudulent claim. C. No person shall knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the medical assistance programs, or to knowingly conceal, avoid, or decrease an obligation to pay or transmit money or property to the medical assistance programs. D. No person shall conspire to defraud, or attempt to defraud, the medical assistance programs through misrepresentation or by obtaining, or attempting to obtain, payment for a false or fraudulent claim. E. (1) No person shall knowingly submit a claim for goods, services, or supplies which were medically unnecessary or which were of substandard quality or quantity. (2) If a managed care health care provider or a health care provider operating under a voucher system under the medical assistance programs fails to provide medically necessary goods, services, or supplies or goods, services, or supplies which are of substandard quality or quantity to a recipient, and those goods, services, or supplies are covered under the managed care contract or voucher contract with the medical assistance programs, such failure shall constitute a violation of Paragraph (1) of this Subsection. (3) "Substandard quality" in reference to services applicable to medical care as used in this Subsection shall mean substandard as to the appropriate standard of care as used to determine medical malpractice, including but not limited to the standard of care provided in R.S. 9:2794. F. Each violation of this Section may be treated as a separate violation or may be combined into one violation at the option of the secretary or the attorney general. G. No action shall be brought under this Section unless the amount of alleged actual damages is one thousand dollars or more. H. No action brought pursuant to this Section shall be instituted later than ten years after the date upon which the alleged violation occurred. **History:** Acts 1997, No. 1373, § 1, eff. Aug. 15, 1997; Acts 2007, No. 14, § 1, eff. June 18, 2007; Acts 2009, No. 426, § 1, eff. Aug. 15, 2009; Acts 2011, No. 185, § 1, eff. Aug. 15, 2011. **La. R.S. 46:438.4 - Illegal acts regarding eligibility and recipient lists** https://www.legis.la.gov/legis/Law.aspx?d=100869 A. No person shall knowingly make, use, or cause to be made or used a false, fictitious, or misleading statement on any form used for the purpose of certifying or qualifying any person for eligibility for the medical assistance programs or to receive any good, service, or supply under the medical assistance programs which that person is not eligible to receive. B. No unauthorized person, or no authorized person for an unauthorized purpose, shall obtain a recipient list, number, name, or any other identifying information, nor shall that person use, possess, or distribute such information. C. An action brought pursuant to the provisions of this Section shall be instituted within one year of when the department knew that the prohibited conduct occurred. **History:** Acts 1997, No. 1373, § 1. **La. R.S. 46:438.5 - Civil monetary penalty** https://www.legis.la.gov/legis/Law.aspx?d=100870 A. In a civil action instituted in the courts of this state pursuant to the provisions of this Part, the secretary or the attorney general may seek a civil monetary penalty provided in R.S. 46:438.6(C) from any of the following:

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	(1) A health care provider or other person sanctioned by order pursuant to an administrative adjudication. (2) A health care provider or other person determined by a court to have violated any provision of this Part. (3) A health care provider or other person who has violated a settlement agreement entered into pursuant to this Part. (4) A health care provider or other person who has been charged with a violation of *R.S. 14:70.1*, *R.S. 14:133*, or *R.S. 46:114.2*. (5) A health care provider or other person who has been found liable in a civil action filed in federal court pursuant to *18 U.S.C. 1347*, et seq., *42 U.S.C. 1359nn*(h)(6), or *42 U.S.C. 1320a-7*(b). (6) A health care provider or other person who has pled guilty to, pled nolo contendere to, or has been convicted in federal court of criminal conduct arising out of circumstances which would constitute a violation of this Part. B. (1) If a health care provider is sanctioned by order pursuant to an administrative adjudication and if judicial review of the order is sought, a civil suit may be filed for imposition and recovery of the civil monetary penalty during the pendency of such judicial review. The reviewing court may consolidate both actions and hear them concurrently. (2) If judicial review of an order is sought, the secretary or the attorney general shall file the action for recovery of the civil monetary penalty within one year of service on the secretary of the petition seeking judicial review of the order. (3) If no judicial review of an order is sought, the secretary or the attorney general may file the action for recovery of the civil monetary penalty within one year of the date of the order. (4) Any action brought under the provisions of this Subsection shall be filed in the Nineteenth Judicial District Court for the parish of East Baton Rouge. C. In the instance of a state criminal action, the action for recovery of the civil monetary penalty may be brought as part of the criminal action or shall be brought within one year of the date of the criminal conviction or final plea. D. (1) In the case of a civil judgment rendered in federal court, the action for recovery of the civil monetary penalty may be brought once the judgment becomes enforceable and no later than one year after written notification to the secretary of the enforceable judgment. (2) In the case of a criminal conviction or plea in federal court, the action under this Section may be brought once the conviction or plea is final and no later than one year after written notification to the secretary of the rendering of the conviction or final plea. (3) Any action brought under the provisions of this Subsection shall be filed in the Nineteenth Judicial District Court for the parish of East Baton Rouge. E. If an action is brought pursuant to this Part, the request for the imposition of a civil monetary penalty shall only be considered if made part of the original or amended petition. **History:** *Acts 1997, No. 1373,* § 1. **La. R.S. 46:438.6 - Recovery** *https://www.legis.la.gov/legis/Law.aspx?d=100871* A. *Actual damages.* --(1) Actual damages incurred as a result of a violation of the provisions of this Part shall be recovered only once by the medical assistance programs and shall not be waived by the court. (2) Except as provided by Paragraph (3) of this Subsection, actual damages shall equal the difference between what the medical assistance programs paid, or would have paid, and the amount that should have been paid had not a violation of this Part occurred plus interest at the maximum rate of legal interest provided by *R.S. 13:4202* from the date the damage occurred to the date of repayment.

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	(3) If the violator is a managed care health care provider or a health care provider under a voucher program, actual damages shall be determined in accordance with the violator's provider agreement. B. *Civil fine.* --(1) Any person who is found to have violated *R.S. 46:438.2* shall be subject to a civil fine in an amount not to exceed ten thousand dollars per violation, or an amount equal to three times the value of the illegal remuneration, whichever is greater. (2) Except as limited by this Section, any person who is found to have violated *R.S. 46:438.3* shall be subject to a civil fine in an amount not to exceed three times the amount of actual damages sustained by the medical assistance programs as a result of the violation. C. *Civil monetary penalty.* --(1) In addition to the actual damages provided in Subsection A of this Section and the civil fine imposed pursuant to Subsection B of this Section, the following civil monetary penalties shall be imposed on the violator: (a) Not less than five thousand five hundred dollars but not more than eleven thousand dollars for each false or fraudulent claim, misrepresentation, illegal remuneration, or other prohibited act as contained in *R.S. 46:438.2*, 438.3, or 438.4. (b) Payment of interest on the amount of the civil fine imposed pursuant to Subsection B of this Section at the maximum rate of legal interest provided by *R.S. 13:4202* from the date the damage occurred to the date of repayment. (2) Prior to the imposition of a civil monetary penalty, the court shall consider if there are extenuating circumstances as provided in *R.S. 46:438.7*. (3) The penalties provided in this Subsection shall be adjusted according to the Federal Civil Penalties Inflation Adjustment Act of 1990, *28 U.S.C. 2461.* D. *Costs, expenses, fees, and attorney fees.* --(1) Any person who is found to have violated this Subpart shall be liable for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorney fees. (2) All awards of costs, expenses, fees, and attorney fees are subject to review by the court using a reasonable, necessary, and proper standard of review. (3) The secretary or attorney general shall promptly remit awards for those costs, expenses, and fees incurred by the various clerks of court or sheriffs involved in the investigations or proceedings to the appropriate clerk or sheriff. E. *Damages.* --(1) If recovery is due from a health care provider under the provisions of Subsections A and B of this Section, such recovery shall constitute civil liquidated damages for breach of the conditions and requirements of participation in the medical assistance programs which are and shall be construed by the courts to be remedial, but not retroactive, in nature. (2) Any award of civil liquidated damages, costs, expenses, and attorney fees shall be in addition to criminal penalties and to the civil monetary penalty provided in Subsection C of this Section. **History:** *Acts 1997, No. 137*3, § 1, eff. Aug. 15, 1997; *Acts 2007, No. 14*, § 1, eff. June 18, 2007; *Acts 2011, No. 185*, § 1, eff. Aug. 15, 2011. **La. R.S. 46:438.7 - Reduced damages** *https://www.legis.la.gov/legis/Law.aspx?d=100872* If requested by the secretary or the attorney general, the court may reduce to not less than twice the actual damages or any recovery required to be imposed under the provisions of this Subpart if all of the following extenuating circumstances are found to be applicable: (1) The violator furnished all the information known to him about the specific allegation to the secretary or attorney general no later than thirty days after the violator first obtained the information. (2) The violator cooperated fully with all federal or state investigations concerning the specific allegation.

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	(3) At the time the violator furnished the information concerning the specific allegation to the department or the attorney general, no criminal, civil, or departmental investigation or proceeding had been commenced as to the alleged violation. **History:** *Acts 1997, No. 137*3, § 1; *Acts 2011, No. 185*, § 1, eff. Aug. 15, 2011. --- Louisiana Revised Statutes Title 22. Insurance Chapter 2. Requirements for insurers and other risk bearing entities Part 3. Financial solvency and reporting requirements Subpart A. Financial reporting requirements La. R.S. § 22:572.1 - **Insurance anti-fraud plan** *https://www.legis.la.gov/legis/Law.aspx?d=727066* **A.** Each authorized insurer, other than a "small company" as defined in *R.S. 22:46*, and each health maintenance organization licensed to operate in this state shall prepare, implement, maintain, and file with the commissioner an insurance anti-fraud plan for its operations in this state. **B.** The insurance anti-fraud plan required by Subsection A of this Section shall outline specific procedures, actions, and safeguards that include how the authorized insurer or health maintenance organization will do each of the following: **(1)** Detect, investigate, and prevent all forms of insurance fraud, including fraud involving its employees or agents; fraud resulting from misrepresentations in the application, renewal, or rating of insurance policies; fraudulent claims; and breach of security of its data processing systems. **(2)** Educate employees on fraud detection and the insurance anti-fraud plan. **(3)** Provide for fraud investigations, whether through the use of internal fraud investigators or third-party contractors. **(4)** Report a suspected fraudulent insurance act, as defined by *R.S. 22:1923 (2)*, to the Department of Insurance as well as law enforcement and other regulatory authorities engaged in the investigation and prosecution of insurance fraud. **(5)** Pursue restitution for financial loss caused by insurance fraud. **C.** The commissioner shall review the insurance anti-fraud plan submitted pursuant to Subsection A of this Section to determine compliance with the requirements of this Section. **D.** The commissioner may investigate and examine the records and operations of authorized insurers and health maintenance organizations to determine if they have implemented and complied with the insurance anti-fraud plan. **E.** The commissioner may direct any modification to the insurance anti-fraud plan necessary to comply with the requirements of this Section, and the commissioner may require action to remedy substantial noncompliance with the insurance anti-fraud plan. **F. (1)** The insurance anti-fraud plan and any summary report shall be filed with the commissioner on or before April first of each calendar year. (2) Either on a calendar year basis or such other interval the commissioner deems appropriate, the commissioner may require that each authorized insurer and each health maintenance organization file a summary report of any material change to the insurance anti-fraud plan, including the total number of claims and the number of claims referred to the commissioner as suspicious, and all of the following information:

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	(a) The number of policies in effect. (b) The amount of premiums written for policies. (c) The number of claims received. (d) The number of claims referred for investigation to the insurer's fraud investigators. (e) The number of claims investigated or accepted by the insurer's fraud investigators. (f) The number of insurance fraud matters investigated or accepted by the insurer's fraud investigators that were not claim related. (g) The number of cases referred to the department. (h) The estimated dollar amount of losses attributable to fraudulent insurance acts, organized by type of fraud, including claimant, employer, provider, agent, and other types. (i) The estimated dollar amount of recoveries attributable to fraudulent insurance acts, organized by type of fraud, including claimant, employer, provider, agent, and other types. (j) The dollar amount of claims denied or not paid based on fraud investigation organized by product line. (k) Quantification of the resources committed to investigating insurance fraud, organized by line of business, for the prior year. **(3)** the commissioner may prescribe the format of the summary report provided for in this Subsection.. **G.** The insurance anti-fraud plan and any summary report required by this Section are not public records and are exempt pursuant to *R.S. 44:1* et seq., and specifically *R.S. 44:4.1(B) (11)*, shall be and are hereby declared to be proprietary and confidential business records not subject to public examination or subpoena. **History:** *Acts 2010, No. 688*, § 1, eff. Jan. 1, 2011; *Acts 2014, No. 121*, § 1, eff. Aug. 1, 201;. 2024 La. Sess. Law Serv. Act 614 (H.B. 399)
	Qui Tam Actions & Remedies
	La. R.S. 46:439.1 **§ 46:439.1. Qui tam action, civil action filed by private person** *https://www.legis.la.gov/legis/Law.aspx?p=y&d=100874* A. A private person may institute a civil action in the courts of this state on behalf of the medical assistance programs and himself to seek recovery for a violation of *R.S. 46:438.2*, 438.3, or 438.4 pursuant to the provisions of this Subpart. The institutor shall be known as a "qui tam plaintiff" and the civil action shall be known as a "qui tam action". B. No qui tam action shall be instituted more than six years after the date on which the violation of the Louisiana Medical Assistance Programs Integrity Law is committed or more than three years after the date the facts material to the right of action are known or reasonably should have been known by the official of the state of Louisiana charged with the responsibility to act in the circumstances, but no more than ten years after the date on which the violation is committed, whichever occurs last. C. The burden of proof in a qui tam action instituted pursuant to this Subpart shall be the same as that set forth in *R.S. 46:438.8*. D. (1) The court shall dismiss an action or claim in accordance with this Section, unless opposed by the government, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in any of the following: (a) A criminal, civil, or administrative hearing in which the government or its agent is a party. (b) A congressional or government accountability office or other federal report, hearing, audit, or investigation. (c) The news media, unless the action is brought by the attorney general or the person bringing the action is an original source of the information. (2) For the purposes of this Subsection, "original source" means an individual who, prior to a public disclosure in accordance with this Subsection, has voluntarily disclosed to the government the information on which allegations or transactions in a claim are based or who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the government before filing an action in accordance with this Subpart.

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	E. Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if the employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action in accordance with this Part or other efforts to stop one or more violations of this Part. (1) Relief in accordance with this Subsection shall include reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. An action in accordance with this Section may be brought in the appropriate district court of competent jurisdiction for the relief provided in this Section. (2) A civil action in accordance with this Section may not be brought more than three years after the date the retaliation occurred. F. The court shall allow the secretary or the attorney general to intervene and proceed with the qui tam action in the district court at any time during the qui tam action proceedings. G. Notwithstanding any other law to the contrary, a qui tam complaint and information filed with the secretary or attorney general shall not be subject to discovery or become public record until judicial service of the qui tam action is made on any of the defendants, except that the information contained therein may be given to other governmental entities or their authorized agents for review and investigation. The entities and their authorized agents shall maintain the confidentiality of the information provided to them under this Subsection. H., I. Repealed by *Acts 2011, No. 185*, § 2, effective August 15, 2011. **History:** *Acts 1997, No. 1373*, § 1, Aug. 15, 1997; *Acts 2009, No. 426*, § 1, eff. Aug. 15, 2009; *Acts 2011, No. 185*, §§ 1, 2, eff. Aug. 15, 2011. **La. R.S. 46:439.2 - Qui tam action procedures** *https://www.legis.la.gov/legis/Law.aspx?d=100875* A. The following procedures shall be applicable to a qui tam action: (1) The complaint shall be captioned: "Medical Assistance Programs Ex Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of defendant(s)]". The qui tam complaint shall be filed with the appropriate state or federal district court. (2) A copy of the qui tam complaint and written disclosure of substantially all material evidence and information each qui tam plaintiff possesses shall be served upon the secretary or the attorney general in accordance with the applicable rules of civil procedure. (3) When a person brings an action in accordance with this Subpart, no person other than the secretary or attorney general may intervene or bring a related action based on the same facts underlying the pending action. (4) (a) The complaint and information filed with the court shall be made under seal, shall remain under seal for at least ninety days from the date of filing, and shall be served on the defendant when the seal is removed. (b) For good cause shown, the secretary or the attorney general may move the court for extensions of time during which the petition remains under seal. Any such motions may be supported by affidavits or other submissions in camera and under seal. B. (1) If the secretary or the attorney general elects to intervene in the action, the secretary or the attorney general shall not be bound by any act of a qui tam plaintiff. The secretary or the attorney general shall control the qui tam action proceedings on behalf of the state and the qui tam plaintiff may continue as a party to the action. For prescription purposes, any government complaint in intervention, whether filed separately or as an amendment to the relator's complaint, shall relate back to the filing date of the complaint, to the extent that the claim of the government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the relator's complaint. (2) The qui tam plaintiff and his counsel shall cooperate fully with the secretary or the attorney during the pendency of the qui tam action.

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	(3) If requested by the secretary or the attorney general and notwithstanding the objection of the qui tam plaintiff, the court may dismiss the qui tam action provided the qui tam plaintiff has been notified by the secretary or the attorney general of the filing of the motion to dismiss and the court has provided the qui tam plaintiff a contradictory hearing on the motion. (4) (a) If the secretary or the attorney general does not intervene, the qui tam plaintiff may proceed with the qui tam action unless the secretary or the attorney general shows that proceeding would adversely affect the prosecution of any pending criminal actions or criminal investigations into the activities of the defendant. Such a showing shall be made to the court in camera and neither the qui tam plaintiff or the defendant shall be informed of the information revealed in camera. In which case, the qui tam action shall be stayed for no more than one year. (b) When a qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may nevertheless permit the secretary or the attorney general to intervene at a later date upon a showing of good cause. (5) If the qui tam plaintiff objects to a settlement of the qui tam action proposed by the secretary or the attorney general, the court may authorize the settlement only after a hearing to determine whether the proposed settlement is fair, adequate, and reasonable under the circumstances. C. Repealed by *Acts 2011, No. 185*, § 2, effective August 15, 2011. D. A defendant shall have thirty days from the time a qui tam complaint is served on him to file a responsive pleading. E. The qui tam plaintiff and the defendant shall serve all pleadings and papers filed, as well as discovery, in the qui tam action on the secretary and the attorney general. F. (1) Whether or not the secretary or the attorney general proceeds with the action, upon showing by the secretary or the attorney general that certain actions of discovery by the qui tam plaintiff or defendant would interfere with a criminal, civil, or departmental investigation or proceeding arising out of the same facts, the court shall stay the discovery for a period of not more than ninety days. (2) Upon a further showing that federal or state authorities have pursued the criminal, civil, or departmental investigation or proceeding with reasonable diligence and any proposed discovery in the qui tam action would unduly interfere with the criminal, civil, or departmental investigation or proceeding, the court may stay the discovery for an additional period, not to exceed one year. (3) Such showings shall be conducted in camera and neither the defendant nor the qui tam plaintiff shall be informed of the information presented to the court. (4) If discovery is stayed pursuant to this Subsection, the trial and any motion for summary judgment in the qui tam action shall likewise be stayed. **History:** *Acts 1997, No. 1373*, § 1, eff. Aug. 15, 1997; *Acts 2007, No. 14*, § 1, eff. June 18, 2007; *Acts 2009, No. 426*, § 1, eff. Aug. 15, 2009; *Acts 2011, No. 185*, §§ 1, 2, eff. Aug. 15, 2011. **La. R.S. 46:439.3 - Qui tam action procedures; alternative remedies** *https://www.legis.la.gov/legis/Law.aspx?d=100876* Notwithstanding any other provision of this Subpart, the secretary or the attorney general may elect to pursue an administrative or civil action against a qui tam defendant through any alternative remedy available to the secretary or the attorney general. If an alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights he would have had if the action had continued in accordance with this Subpart. Any finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action in accordance with this Subpart. A finding or conclusion is final if it has been finally determined on appeal, if all delays for the filing of an appeal regarding the finding or conclusion have expired, or if the finding or conclusion is not subject to judicial review. **History:** *Acts 1997, No. 1373*, § 1, Aug. 15, 1997; *Acts 2009, No. 426*, § 1, eff. Aug. 15, 2009. **La. R.S. 46:439.4** **Recovery awarded to a qui tam plaintiff** *https://www.legis.la.gov/legis/Law.aspx?d=100877*

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	A. (1) Except as provided by Subsection D of this Section and Paragraph (3) of this Subsection, if the secretary or the attorney general intervenes in the action brought by a qui tam plaintiff, the qui tam plaintiff shall receive at least fifteen percent, but not more than twenty-five percent, of recovery. (2) In making a determination of award to the qui tam plaintiff, the court shall consider the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action. (3) If the court finds the allegations in the qui tam action to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions in criminal, civil, or administrative hearings, or from the news media, the court may award such sum it considers appropriate, but in no case may the court award more than ten percent of the proceeds, considering the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person in accordance with this Subsection shall be made from the proceeds recovered. B. Except as provided by Subsection D of this Section, if the secretary or the attorney general does not intervene in the qui tam action, the qui tam plaintiff shall receive an amount, not less than twenty-five but not more than thirty percent of recovery, which the court decides is reasonable for the qui tam plaintiff pursuing the action to judgment or settlement. C. (1) In addition to all other recovery to which he is entitled and if he prevails in the qui tam action through litigation or settlement, the qui tam plaintiff shall be entitled to an award against the defendant for costs, expenses, fees, and attorney fees, subject to review by the court using a reasonable, necessary, and proper standard of review. (2) If the secretary or the attorney general does not intervene and the qui tam plaintiff conducts the action, the court shall award costs, expenses, fees, and attorney fees to a prevailing defendant if the court finds that the allegations made by the qui tam plaintiff were meritless or brought primarily for the purposes of harassment. A finding by the court that qui tam allegations were meritless or brought primarily for the purposes of harassment may be used by the prevailing defendant in the qui tam action or any other civil proceeding to recover losses or damages sustained as a result of the qui tam plaintiff filing and pursuing such a qui tam action. D. Whether or not the secretary or the attorney general intervenes, if the court finds that the action was brought by a person who planned and initiated the violation which is the subject of the action, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the qui tam plaintiff would otherwise receive under Subsection A or B of this Section, taking into account the role the qui tam plaintiff played in advancing the case to judgment or settlement and any relevant circumstances pertaining to the qui tam plaintiff's participation in the violation. E. When more than one party serves as a qui tam plaintiff, the share of recovery each receives shall be determined by the court. In no case, however, shall the total award to multiple qui tam plaintiffs be greater than the total award allowed to a single qui tam plaintiff under Subsection A or B of this Section. F. In no instance shall the secretary, the medical assistance programs, the attorney general, or the state be liable for any costs, expenses, fees, or attorney fees incurred by the qui tam plaintiff or for any award entered against the qui tam plaintiff. G. The percentage of the share awarded to or settled for by the qui tam plaintiff shall be determined using the total amount of the award or settlement. **History:** *Acts 1997, No. 137*3, § 1, eff. Aug. 15, 1997; *Acts 2007, No. 14*, § 1, eff. June 18, 2007; *Acts 2009, No. 426*, § 1, eff. Aug. 15, 2009; *Acts 2011, No. 185*, § 1, eff. Aug. 15, 2011. **La. R.S. 46:440.2 - Rewards for fraud and abuse information** *https://www.legis.la.gov/legis/Law.aspx?d=100879* A. The secretary may provide a reward of up to two thousand dollars to an individual who submits information to the secretary which results in recovery pursuant to the provisions of this Part, provided such individual is not himself subject to recovery under this Part. B. The secretary shall grant rewards only to the extent monies are appropriated for this purpose from the Medical Assistance Programs Fraud Detection Fund. The secretary shall determine the amount of a reward, not to exceed two thousand dollars per individual per action, and establish a process to grant the reward in accordance with rules and regulations promulgated in accordance with the Administrative Procedure Act. **History:** *Acts 1997, No. 137*3, § 1.
	Whistle-blower Protections
	La. R.S. 46:439.1(E)

State /Citation	False Claims Laws
	§ 46:439.1. Qui tam action, civil action filed by private person https://www.legis.la.gov/legis/Law.aspx?p=y&d=100874 E. Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if the employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action in accordance with this Part or other efforts to stop one or more violations of this Part. (1) Relief in accordance with this Subsection shall include reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. An action in accordance with this Section may be brought in the appropriate district court of competent jurisdiction for the relief provided in this Section. (2) A civil action in accordance with this Section may not be brought more than three years after the date the retaliation occurred. H., I. Repealed by *Acts 2011, No. 185*, § 2, effective August 15, 2011.
	Whistle-blower Protections **La. R.S. 46:440.3** **Whistleblower protection and cause of action.** https://www.legis.la.gov/legis/Law.aspx?d=100880 A. No employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken pursuant to this Part in regard to a health care provider or other person from whom recovery is or could be sought. Such an employee may seek any and all relief for his injury to which he is entitled under state or federal law. B. No individual shall be threatened, harassed, or discriminated against in any manner by a health care provider or other person because of any lawful act engaged in by the individual or on behalf of the individual in furtherance of any action taken pursuant to this Part in regard to a health care provider or other person from whom recovery is or could be sought except that a health care provider may arrange for a recipient to receive goods, services, or supplies from another health care provider if the recipient agrees and the arrangement is approved by the secretary. Such an individual may seek any and all relief for his injury to which he is entitled under state or federal law. C. (1) An employee of a private entity may bring his action for relief against his employer or the health care provider in the same court as the action or actions were brought pursuant to this Part or as part of an action brought pursuant to this Part. (2) A person aggrieved of a violation of Subsection A or B of this Section shall be entitled to exemplary damages. D. A qui tam plaintiff shall not be entitled to recovery pursuant to this Section if the court finds that the qui tam plaintiff instituted or proceeded with an action that was frivolous, vexatious, or harassing. **History:** *Acts 1997, No. 1373,* § 1.
Missouri **M**O ST 191.900 - 914 V.A.M.S. 191.900 § 191.900 R.S.Mo. § 191.905 R.S.Mo.	**Criminal and Civil Penalties for False Claims and Statements** **Other Helpful Information About Medicaid Fraud & Reporting Fraud** ***https://mmac.mo.gov/fraud/medicaid-fraud/*** ***https://ago.mo.gov/criminal-division/medicaid-fraud*** **https://dmh.mo.gov/media/pdf/deficit-reduction-act-false-claims-act-policy**

State /Citation	False Claims Laws
§ 191.907 R.S.Mo. § 191.908 R.S.Mo. **V.A.M.S. 208.164**	**V.A.M.S. 208.164** **208.164. Medical assistance abuse or fraud, definitions--department's or division's powers--reports, confidential--restriction or termination of benefits, when--rules--contracts and provider agreements, termination or denial, when** *Currentness* 1. As used in this section, unless the context clearly requires otherwise, the following terms mean: (1) "Abuse", a documented pattern of inducing, furnishing, or otherwise causing a recipient to receive services or merchandise not otherwise required or requested by the recipient, attending physician or appropriate utilization review team; a documented pattern of performing and billing tests, examinations, patient visits, surgeries, drugs or merchandise that exceed limits or frequencies determined by the department for like practitioners for which there is no demonstrable need, or for which the provider has created the need through ineffective services or merchandise previously rendered. The decision to impose any of the sanctions authorized in this section shall be made by the director of the department, following a determination of demonstrable need or accepted medical practice made in consultation with medical or other health care professionals, or qualified peer review teams; (2) "Department", the department of social services; (3) "Excessive use", the act, by a person eligible for services under a contract or provider agreement between the department of social services or its divisions and a provider, of seeking and/or obtaining medical assistance benefits from a number of like providers and in quantities which exceed the levels that are considered medically necessary by current medical practices and standards for the eligible person's needs; (4) "Fraud", a known false representation, including the concealment of a material fact that the provider knew or should have known through the usual conduct of his profession or occupation, upon which the provider claims reimbursement under the terms and conditions of a contract or provider agreement and the policies pertaining to such contract or provider agreement of the department or its divisions in carrying out the providing of services, or under any approved state plan authorized by the federal Social Security Act; (5) "Health plan", a group of services provided to recipients of medical assistance benefits by providers under a contract with the department; (6) "Medical assistance benefits", those benefits authorized to be provided by *sections 208.152* and *208.162*; (7) "Prior authorization", approval to a provider to perform a service or services for an eligible person required by the department or its divisions in advance of the actual service being provided or approved for a recipient to receive a service or services from a provider, required by the department or its designated division in advance of the actual service or services being received; (8) "Provider", any person, partnership, corporation, not-for-profit corporation, professional corporation, or other business entity that enters into a contract or provider agreement with the department or its divisions for the purpose of providing services to eligible persons, and obtaining from the department or its divisions reimbursement therefor; (9) "Recipient", a person who is eligible to receive medical assistance benefits allocated through the department; (10) "Service", the specific function, act, successive acts, benefits, continuing benefits, requested by an eligible person or provided by the provider under contract with the department or its divisions. 2. The department or its divisions shall have the authority to suspend, revoke, or cancel any contract or provider agreement or refuse to enter into a new contract or provider agreement with any provider where it is determined the provider has committed or allowed its agents, servants, or employees to commit acts defined as abuse or fraud in this section. 3. The department or its divisions shall have the authority to impose prior authorization as defined in this section: (1) When it has reasonable cause to believe a provider or recipient has knowingly followed a course of conduct which is defined as abuse or fraud or excessive use by this section; or (2) When it determines by rule that prior authorization is reasonable for a specified service or procedure. 4. If a provider or recipient reports to the department or its divisions the name or names of providers or recipients who, based upon their personal knowledge has reasonable cause to believe an act or acts are being committed which are defined as abuse, fraud or excessive use by this section, such report shall be confidential and the reporter's name shall not be divulged to anyone by the department or any of its divisions, except at a judicial proceeding upon a proper protective order being entered by the court. 5. Payments for services under any contract or provider agreement between the department or its divisions and a provider may be withheld by the department or its divisions from the provider for acts or omissions defined as abuse or fraud by this section, until such time as an agreement between the parties is reached or the dispute is adjudicated under the laws of this state. 6. The department or its designated division shall have the authority to review all cases and claim records for any recipient of public assistance benefits and to determine from these records if the recipient has, as defined in this section, committed excessive use of such services by seeking or obtaining services from a number of like providers of services and in quantities which exceed the levels considered necessary by current medical or health care professional practice standards and policies of the program. 7. The department or its designated division shall have the authority with respect to recipients of medical assistance benefits who have committed excessive use to limit or restrict the use of the recipient's Medicaid identification card to designated providers and for designated services; the actual method by which such restrictions are imposed shall be at the discretion of the department of social services or its designated division. 8. The department or its designated division shall have the authority with respect to any recipient of medical assistance benefits whose use has been restricted under subsection 7 of this section and who obtains or seeks to obtain medical assistance benefits from a provider other than one of the providers for designated services to terminate medical assistance benefits as defined by this chapter, where allowed by the provisions of the federal Social Security Act. 9. The department or its designated division shall have the authority with respect to any provider who knowingly allows a recipient to violate subsection 7 of this section or who fails to report a known violation of subsection 7 of this section to the department of social services or its designated division to terminate or otherwise sanction such provider's status as a participant in the medical assistance program. Any person making such a report shall not be civilly liable when the report is made in good faith.

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	10. In order to comply with the provisions of *42 U.S.C. Section 1320a-7(a)* relating to mandatory exclusion of certain individuals and entities from participation in any federal health care program, and in furtherance of the state's authority under federal law, as implemented by *42 CFR 1002.3(b)*, to exclude an individual or entity from MO HealthNet for any reason or period authorized by state law, the department or its divisions shall suspend, revoke, or cancel any contract or provider agreement or refuse to enter into a new contract or provider agreement with any provider where it is determined that such provider is not qualified to perform the service or services required, as described in *42 U.S.C. Section 1396a(a)(23)*, because such provider, or such provider's agent, servant, or employee acting under such provider's authority: (1) Has a conviction related to the delivery of any item or service under Medicare or under any state health care program, as described in *42 U.S.C. Section 1320a-7(a)(1)*; (2) Has a conviction related to the neglect or abuse of a patient in connection with the delivery of any health care item or service, as described in *42 U.S.C. Section 1320a-7(a)(2)*; (3) Has a felony conviction related to health care fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct, as described in *42 U.S.C. Section 1320a-7(a)(3)*; (4) Has a felony conviction related to the unlawful manufacture, distribution, prescription, or dispensation of a controlled substance, as described in *42 U.S.C. Section 1320a-7(a)(4)*; (5) Has been found guilty of, or civilly liable for, a pattern of intentional discrimination in the delivery or nondelivery of any health care item or service based on the race, color, or national origin of recipients, as described in *42 U.S.C. Section 2000d*; or (6) Is an abortion facility, as defined in *section 188.015*, or an affiliate, as defined in section 188.015, of such abortion facility. **Credits** **(L.1982, H.B. No. 1086, § A(§ 1). Amended by *L.1995, S.B. No. 3, § A*; *L.2024, H.B. No. 2634, § A, eff. Aug. 28, 2024*.)** **MO ST 208.165** Medical assistance, payments withheld for services, when--payment ordered, interest allowed *http://revisor.mo.gov/main/OneSection.aspx?section=208.165&bid=11008&hl=* V.A.M.S. 208.165 **208.165. Medical assistance, payments withheld for services, when--payment ordered, interest allowed** *Currentness* The department or its designated division shall have authority after forty-five days written notice to the affected provider to withhold from any payments that may be or become due to a provider of service under the medical assistance program such amounts as the department or its designated division may determine are due to the state as a result of overpayments, cost settlements, disallowances, duplicate payments, fraud or abuse; provided that should a judicial tribunal, including the administrative hearing commission, finally determine that all or part of such withholding is due to the provider of services, the judicial tribunal may, in its discretion, allow a reasonable rate of interest on such amount from the time of the withholding. **Credits** (L.1982, H.B. No. 1086, § A(§ 2).) **MO ST 191.905** False statement to receive health care payment prohibited -- kickback, bribe, purpose, prohibited, exceptions -- abuse prohibited -- penalty -- prosecution, procedure -- Medicaid fraud reimbursement fund created -- restitution -- civil penalty -- notification to disciplinary agencies -- civil action authorized *http://revisor.mo.gov/main/OneSection.aspx?section=191.905&bid=9688&hl=* V.A.M.S. 191.905 **191.905. False statement to receive health care payment prohibited--kickback, bribe, purpose, prohibited, exceptions--abuse prohibited--penalty--prosecution, procedure--Medicaid fraud reimbursement fund created--restitution--civil penalty--notification to disciplinary agencies--civil action authorized** *Currentness* 1. No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to: (1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not; (2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care; (3) Knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled; (4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided. 2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for: (1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

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	(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care. 3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care. 4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care. 5. Exceptions to the provisions of subsections 2 and 3 of this section shall be provided for as authorized in *42 U.S.C. Section 1320a-7b(3)(E)*, as may be from time to time amended, and regulations promulgated pursuant thereto. 6. No person shall knowingly abuse a person receiving health care. 7. A person who violates subsections 1 to 3 of this section is guilty of a class D felony upon his or her first conviction, and shall be guilty of a class B felony upon his or her second and subsequent convictions. Any person who has been convicted of such violations shall be referred to the Office of Inspector General within the United States Department of Health and Human Services. The person so referred shall be subject to the penalties provided for under *42 U.S.C. Chapter 7, Subchapter XI, Section 1320a-7*. A prior conviction shall be pleaded and proven as provided by *section 558.021*. A person who violates subsection 6 of this section shall be guilty of a class D felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than five hundred dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor. 8. Any natural person who willfully prevents, obstructs, misleads, delays, or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of *sections 191.900* to *191.910* is guilty of a class E felony. 9. Each separate false statement or false representation of a material fact proscribed by subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim. 10. In a prosecution pursuant to subsection 1 of this section, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following: (1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment; (2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means; (3) A course of conduct involving other false claims submitted to this or any other health care payer. 11. Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to *sections 191.900* to *191.910*. All of such restitution shall be paid and deposited to the credit of the "MO HealthNet Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "MO HealthNet Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of *sections 191.900* to *191.910* and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by *sections 191.900* to *191.910*. No moneys shall be paid into the MO HealthNet fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. Any moneys remaining in the MO HealthNet fraud reimbursement fund after division and appropriation to the federal government and affected state agencies shall be used to increase MO HealthNet provider reimbursement until it is at least one hundred percent of the Medicare provider reimbursement rate for comparable services. The provisions of *section 33.080* notwithstanding, moneys in the MO HealthNet fraud prosecution revolving fund shall not lapse at the end of the biennium. 12. A person who violates subsections 1 to 3 of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government sustained because of the act of the person, if the court finds: (1) The person committing the violation of this section furnished personnel employed by the attorney general and responsible for investigating violations of *sections 191.900* to *191.910* with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information; (2) Such person fully cooperated with any government investigation of such violation; and (3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation. 13. Upon conviction pursuant to this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

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	14. The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person. The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the MO HealthNet fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the MO HealthNet fraud prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and civil penalties provided by subsections 11 and 12 of this section have been previously ordered against the person for the same cause of action. 15. Any person who discovers a violation by himself or herself or such person's organization and who reports such information voluntarily before such information is public or known to the attorney general shall not be prosecuted for a criminal violation. **Credits** (*L.1994, H.B. No. 1427, § A*(§ 2). Amended by *L.2002, H.B. No. 1888, § A*; *L.2007, S.B. No. 577, § A*; *L.2014, S.B. No. 491, § A, eff. Jan. 1, 2017*.) **13 CSR 70-3.030** **13 MO ADC 70-3.030** **Administrative Actions for Improperly Paid, False, or Fraudulent Claims for MO HealthNet Services** *http://s1.sos.mo.gov/cmsimages/adrules/csr/current/13csr/13c70-3.pdf* **MO 198.142** Health care provider and vendor not to misrepresent or conceal facts or convert benefits for payments *http://revisor.mo.gov/main/OneSection.aspx?section=198.142&bid=10491&hl=* **MO ST 198.158** Penalties for violation of sections 198.139 to 198.155 *http://revisor.mo.gov/main/OneSection.aspx?section=198.158&bid=10496&hl=* **MO ST 375.991** Fraudulent insurance act, committed, when -- powers and duties of department -- penalties *http://revisor.mo.gov/main/OneSection.aspx?section=375.991&bid=20447&hl=* **Applicable Licensing Statutes & penalties for fraud**: **Physicians & Surgeons** ---- MO ST 334.100 *http://revisor.mo.gov/main/OneSection.aspx?section=334.100&bid=17759&hl=* **Psychologists -- MO ST** 337.035 *http://revisor.mo.gov/main/OneSection.aspx?section=337.035&bid=17971&hl=* **Social Workers – MO ST** 337.630 *http://revisor.mo.gov/main/OneSection.aspx?section=337.630&bid=18018&hl=* **Marital and Family Therapists -- MO ST** 337.730 *http://revisor.mo.gov/main/OneSection.aspx?section=337.730&bid=18051&hl=*

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	Professional Counselors -- MO ST 337.525 *http://revisor.mo.gov/main/OneSection.aspx?section=337.525&bid=18001&hl=*
	Qui Tam Actions & Remedies
	MO ST 191.907 Original source of information to receive a portion of any recovery *http://revisor.mo.gov/main/OneSection.aspx?section=191.907&bid=9690&hl=* V.A.M.S. 191.907 **191.907. Original source of information to receive a portion of any recovery** *Currentness* 1. Any person who is the original source of the information used by the attorney general to bring an action under *subsection 14 of section 191.905* shall receive ten percent of any recovery by the attorney general. As used in this section, **"original source of information"** means information no part of which has been previously disclosed to or known by the government or public. If the court finds that the person who was the original source of the information used by the attorney general to bring an action under *subsection 14 of section 191.905* planned, initiated, or participated in the conduct upon which the action is brought, such person shall not be entitled to any percentage of the recovery obtained in such action. 2. Any person who is the original source of information about the willful violation by any person of *section 36.460* shall receive ten percent of the amount of compensation that would have been paid the employee forfeiting his or her position under *section 36.460* if the employee was found to have acted fraudulently in connection with the state medical assistance program. **Credits** (*L.2007, S.B. No. 577, § A.*)
	Whistle-blower Protections
	MO ST 191.908 Whistleblower protections -- violations, penalty *http://revisor.mo.gov/main/OneSection.aspx?section=191.908&bid=9691&hl=* **V.A.M.S. 191.908** **191.908. Whistleblower protections--violations, penalty** ***Currentness*** 1. An employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding or court action under *sections 191.900* to *191.910*. Such prohibition shall not apply to an employment action against an employee who: (1) The court finds brought a frivolous or clearly vexatious claim; (2) The court finds to have planned, initiated, or participated in the conduct upon which the action is brought; or (3) Is convicted of criminal conduct arising from a violation of *sections 191.900* to *191.910*. 2. An employer who violates this section is liable to the employee for all of the following: (1) Reinstatement to the employee's position without loss of seniority; (2) Two times the amount of lost back pay; (3) Interest on the back pay at the rate of one percent over the prime rate. **Credits** **(*L.2007, S.B. No. 577, § A.*)** **MO ST 105.055** State employee reporting mismanagement or violations of agencies, discipline of employee prohibited -- appeal by employee from disciplinary actions, procedure -- disciplinary action defined -- violation, penalties -- civil action, when *http://revisor.mo.gov/main/OneSection.aspx?section=105.055&bid=5521&hl=*

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	Chapter 105. Public Officers and Employees--Miscellaneous Provisions (Refs & Annos) *SuperBrowse Generally (Refs & Annos)* **Effective: August 28, 2018** V.A.M.S. 105.055 **105.055. Reporting of mismanagement or violations of agencies, discipline of employee prohibited--appeal by employee from disciplinary actions, procedure--violation, penalties--civil action, when--auditor to investigate, when** *Currentness* 1. As used in this section, the following terms mean: (1) **"Disciplinary action"**, any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, regardless of whether the withholding of work has affected or will affect the employee's compensation; (2) **"Public employee"**, any employee, volunteer, intern, or other individual performing work or services for a public employer; (3) **"Public employer"**, any state agency or office, the general assembly, any legislative or governing body of the state, any unit or political subdivision of the state, or any other instrumentality of the state. 2. No supervisor or appointing authority of any public employer shall prohibit any employee of the public employer from discussing the operations of the public employer, either specifically or generally, with any member of the legislature, state auditor, attorney general, a prosecuting or circuit attorney, a law enforcement agency, news media, the public, or any state official or body charged with investigating any alleged misconduct described in this section. 3. No supervisor or appointing authority of any public employer shall: (1) Prohibit a public employee from or take any disciplinary action whatsoever against a public employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences: (a) A violation of any law, rule or regulation; or (b) Mismanagement, a gross waste of funds or abuse of authority, violation of policy, waste of public resources, alteration of technical findings or communication of scientific opinion, breaches of professional ethical canons, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; (2) Require a public employee to give notice to the supervisor or appointing authority prior to disclosing any activity described in subdivision (1) of this subsection; or (3) Prevent a public employee from testifying before a court, administrative body, or legislative body regarding the alleged prohibited activity or disclosure of information. 4. This section shall not be construed as: (1) Prohibiting a supervisor or appointing authority from requiring that a public employee inform the supervisor or appointing authority as to legislative requests for information to the public employer or the substance of testimony made, or to be made, by the public employee to legislators on behalf of the public employer; (2) Permitting a public employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the public employee is requested by a legislator or legislative committee to appear before a legislative committee; (3) Authorizing a public employee to represent his or her personal opinions as the opinions of a public employer; or (4) Restricting or precluding disciplinary action taken against a public employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety. 5. In addition to any other remedies provided by law, any state employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the administrative hearing commission. The appeal shall be filed within one year of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter 536. If the commission finds that disciplinary action taken was taken for any reason that violates this section, the commission shall modify or reverse the agency's action and order such relief for the employee as the commission considers appropriate. If the commission finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the commission in such cases may be appealed by any party pursuant to law. 6. Each public employer shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the public employer. 7. (1) In addition to the remedies in subsection 5 of this section or any other remedies provided by law, a person who alleges a violation of this section may bring a civil action against the public employer for damages within one year after the occurrence of the alleged violation. (2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides. A person commencing such action may request a trial by jury. (3) A public employee shall show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity. Upon such a showing, the burden shall be on the public employer to demonstrate that the disciplinary action was not the result of such a report.

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	(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees. 8. If the alleged misconduct is related to the receipt and expenditures of public funds, a public employee alleging that disciplinary action was taken against the employee in violation of this section may request the state auditor to investigate the alleged misconduct and whether the disciplinary action was taken in violation of this section. If the state auditor uses his or her discretion to make such an investigation, the time to appeal such disciplinary action under subsections 5 and 7 of this section shall be the later of one year from the date of the alleged disciplinary action or ninety days following the release of the state auditor's report. 9. The provisions of this section shall apply to public employees, notwithstanding any provisions of sections*1* 213.070 and*1* 285.575 to the contrary. **Credits** (L.1987, H.B. No. 659, § 1. Amended by *L.1993, S.B. No. 180, § A*; *L.2000, S.B. No. 788, § A*; *L.2004, H.B. No. 1548, § A*; *L.2010, H.B. No. 1868, § A*; *L.2018, S.B. No. 1007, § A, eff. Aug. 28, 2018*.)
Nevada/ Nev. Rev. Stat. Ann. § 357.010-357.250 NRS 422.410 – 570 NRS 193.130 NRS 357.240 - 250	**Criminal and Civil Penalties for False Claims and Statements** Other Helpful Information About Medicaid Fraud & Reporting Fraud *http://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/* *http://dhcfp.nv.gov/Resources/PI/SURMain/* Nev. Rev. Stat. Ann. § 357.010 Definitions *http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec010* Nev. Rev. Stat. Ann. § 357.020 **"Claim" defined.** *http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec020* Nev. Rev. Stat. Ann. § 357.040 **Liability for damages and civil penalty for certain acts.** ***http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec040*** Nev. Rev. Stat. Ann. § 422.366 **Unlawful acts: Obtaining or possessing card without consent of holder of card; presumption from possession of card; penalty.** ***http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec366*** Nev. Rev. Stat. Ann. § 422.367 **Unlawful acts: Sale or purchase of card; authorization by holder of card for use by person not entitled to use card; penalty.** ***http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec367*** Nev. Rev. Stat. Ann. § 422.368 **Unlawful acts: Use of forged, expired or revoked card to obtain benefits; receipt of benefits by misrepresentation; penalty.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec368* Nev. Rev. Stat. Ann. § 422.369 **Unlawful acts: Fraud by person authorized to provide care to holder of card; penalty.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec369* Nev. Rev. Stat. Ann. § 422.410 **Fraudulent acts; penalties.** ***http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec410***

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	Nev. Rev. Stat. Ann. § 422.520 **"Sign" defined.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec520* *Nev. Rev. Stat. Ann. § 422.525* **"Statement or representation" defined.** ***http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec525*** *Nev. Rev. Stat. Ann. § 422.530* **Responsibility for false claim, statement or representation.** ***http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec530*** *Nev. Rev. Stat. Ann. § 422.540* **Offenses regarding false claims, statements or representations; penalties.** ***http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec540*** *Nev. Rev. Stat. Ann. § 422.550* **Statement regarding truth and accuracy of applications, reports and invoices; perjury; presumption concerning person who signs statement on behalf of provider.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec550* *Nev. Rev. Stat. Ann. § 422.560* **Offenses regarding sale, purchase or lease of goods, services, materials or supplies; penalty.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec560* *Nev. Rev. Stat. Ann. § 422.570* **Intentional failure to maintain adequate records; intentional destruction of records; penalties.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec570* *Nev. Rev. Stat. Ann. § 422.580* **Civil penalties for certain violations; liability of provider for excess amount unknowingly accepted; enforcement; use of money collected as penalty or repayment.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec580* *Nev. Rev. Stat. Ann. § 422.590* **Limitation and accrual of actions.** *http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec590* Nev. Rev. Stat. Ann. § 193.130 **Categories and punishment of felonies.** ***http://www.leg.state.nv.us/NRS/NRS-193.html#NRS193Sec130***
	Qui Tam Actions & Remedies
	Nev. Rev. Stat. Ann. § 357.080

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	357.080. Action by private plaintiff; venue of actions. *http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec080* Nev. Rev. Stat. Ann. § 357.210 **357.210. Distribution to private plaintiff in certain actions.** *http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec210*
	Whistle-blower Protections Nev. Rev. Stat. Ann. § 357.250 **Liability of employer for violations of NRS 357.240; entitlement of employee to remedies.** *http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec250*
New Mexico/ Medicaid False Claims Act N.M. Stat. Ann. § 27-14- 1 *et seq.* New Mexico/ This act [*44-9-1 to 44-9-14 NMSA* 1978] may be cited as the "Fraud Against Taxpayers Act". Medicaid Fraud Act N.M. Stat. Ann. § 30-44-1 - 8	**Criminal and Civil Penalties for False Claims and Statements** Other Helpful Information About Medicaid Fraud & Reporting Fraud *https://www.hsd.state.nm.us/lookingforassistance/report_fraud/* *https://www.hsd.state.nm.us/about_the_department/office_of_inspector_general/* N.M. Stat. Ann. § 27-14-1 Short title - **"Medicaid False Claims Act".** **N.M. Stat. Ann. § 27-14-2 - Purpose** The purpose of the Medicaid False Claims Act [*27-14-1 NMSA* 1978] is to deter persons from causing or assisting to cause the state to pay medicaid claims that are false and to provide remedies for obtaining treble damages and civil recoveries for the state when money is obtained from the state by reason of a false claim. **HISTORY:** *Laws 2004, ch. 49, § 2*. **N.M. Stat. Ann. § 27-14-3 - Definitions** **§ 27-14-3. Definitions** *Currentness* <This version of section effective July 1, 2024. See, also, version of *section 27-14-3* effective until July 1, 2024.> As used in the Medicaid False Claims Act: A. "claim" means a written or electronically submitted request for payment of health care services pursuant to the medicaid program; B. "department" or "authority" means the health care authority; C. "medicaid" means the federal-state program administered by the health care authority pursuant to Title 19 or Title 21 of the federal Social Security Act; D. "medicaid recipient" means a person on whose behalf a person claims or receives a payment from the medicaid program, regardless of whether the person was eligible for the medicaid program; and E. "qui tam" means an action brought under a statute that allows a private person to sue for a recovery, part of which the state will receive. **Credits** *L. 2004, Ch. 49, § 3; L. 2024, Ch. 39, § 119, eff. July 1, 2024.* **N.M. Stat. Ann. § 27-14-4 - False claims against the state; liability for certain acts** A person commits an unlawful act and shall be liable to the state for three times the amount of damages that the state sustains as a result of the act if the person: A. presents, or causes to be presented, to the state a claim for payment under the Medicaid program knowing that such claim is false or fraudulent;

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	B. presents, or causes to be presented, to the state a claim for payment under the Medicaid program knowing that the person receiving a Medicaid benefit or payment is not authorized or is not eligible for a benefit under the Medicaid program; C. makes, uses or causes to be made or used a record or statement to obtain a false or fraudulent claim under the Medicaid program paid for or approved by the state knowing such record or statement is false; D. conspires to defraud the state by getting a claim allowed or paid under the Medicaid program knowing that such claim is false or fraudulent; E. makes, uses or causes to be made or used a record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state, relative to the Medicaid program, knowing that such record or statement is false; F. knowingly applies for and receives a benefit or payment on behalf of another person, except pursuant to a lawful assignment of benefits, under the Medicaid program and converts that benefit or payment to his own personal use; G. knowingly makes a false statement or misrepresentation of material fact concerning the conditions or operation of a health care facility in order that the facility may qualify for certification or recertification required by the Medicaid program; or H. knowingly makes a claim under the Medicaid program for a service or product that was not provided. **HISTORY:** *Laws 2004, ch. 49, § 4*. ***N.M. Stat. Ann. § 27-14-6*** **- Immunity** Notwithstanding any other law, a person is not civilly or criminally liable for providing access to documentary material pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] to a person identified in Subsection B of Section 5 [*27-14-5 NMSA* 1978] of that act. **HISTORY:** Laws 2004, ch. 49, § 6 N.M. Stat. Ann. § 44-9-1 Short title - **"Fraud Against Taxpayers Act"**. **N.M. Stat. Ann. § 44-9-2 - Definitions** As used in the Fraud Against Taxpayers Act: **A.** "claim" means a request or demand for money, property or services when all or a portion of the money, property or services requested or demanded issues from or is provided or reimbursed by the state or a political subdivision; **B.** "employer" includes an individual, corporation, firm, association, business, partnership, organization, trust, charter school and the state and any of its agencies, institutions or political subdivisions; **C.** "knowingly" means that a person, with respect to information, acts: **(1)** with actual knowledge of the truth or falsity of the information; **(2)** in deliberate ignorance of the truth or falsity of the information; or

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	(3) in reckless disregard of the truth or falsity of the information; **D.** "person" means an individual, corporation, firm, association, organization, trust, business, partnership, limited liability company, joint venture or any legal or commercial entity; **E.** "political subdivision" means a political subdivision of the state or a charter school; and **F.** "state" means the state of New Mexico or any of its branches, agencies, departments, boards, commissions, officers, institutions or instrumentalities, including the New Mexico finance authority, the New Mexico mortgage finance authority and the New Mexico lottery authority. **HISTORY:** *Laws 2007, ch. 40, § 2*; *2015, ch. 128, § 1*. **N.M. Stat. Ann. § 44-9-3 - False claims; liability; penalties; exception** **A.** A person shall not: **(1)** knowingly present, or cause to be presented, to an employee, officer or agent of the state or a political subdivision or to a contractor, grantee or other recipient of state or political subdivision funds a false or fraudulent claim for payment or approval; **(2)** knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to obtain or support the approval of or the payment on a false or fraudulent claim; **(3)** conspire to defraud the state or a political subdivision by obtaining approval or payment on a false or fraudulent claim; **(4)** conspire to make, use or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or a political subdivision; **(5)** when in possession, custody or control of property or money used or to be used by the state or a political subdivision, knowingly deliver or cause to be delivered less property or money than the amount indicated on a certificate or receipt; **(6)** when authorized to make or deliver a document certifying receipt of property used or to be used by the state or a political subdivision, knowingly make or deliver a receipt that falsely represents a material characteristic of the property; **(7)** knowingly buy, or receive as a pledge of an obligation or debt, public property from any person that may not lawfully sell or pledge the property; **(8)** knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or a political subdivision; or **(9)** as a beneficiary of an inadvertent submission of a false claim and having subsequently discovered the falsity of the claim, fail to disclose the false claim to the state or political subdivision within a reasonable time after discovery. **B.** Proof of specific intent to defraud is not required for a violation of Subsection A of this section. **C.** A person who violates Subsection A of this section shall be liable for: **(1)** three times the amount of damages sustained by the state or political subdivision because of the violation; **(2)** a civil penalty of not less than five thousand dollars ($ 5,000) and not more than ten thousand dollars ($ 10,000) for each violation;

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	(3) the costs of a civil action brought to recover damages or penalties; and **(4)** reasonable attorney fees, including the fees of the attorney general, state agency or political subdivision counsel. **D.** A court may assess not less than two times the amount of damages sustained by the state or a political subdivision if the court finds all of the following: **(1)** the person committing the violation furnished the attorney general or political subdivision with all information known to that person about the violation within thirty days after the date on which the person first obtained the information; **(2)** at the time that the person furnished the attorney general or political subdivision with information about the violation, a criminal prosecution, civil action or administrative action had not been commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; and **(3)** the person fully cooperated with any investigation by the attorney general or political subdivision. **E.** This section does not apply to claims, records or statements made pursuant to the provisions of Chapter 7 NMSA 1978. **HISTORY:** *Laws 2007, ch. 40, § 3*; *2015, ch. 128, § 2*. ***N.M. Stat. Ann. § 44-9-13*** **- Joint and several liability** Liability shall be joint and several for any act committed by two or more persons in violation of the Fraud Against Taxpayers Act [*44-9-1 NMSA* 1978]. **HISTORY:** Laws 2007, ch. 40, § 13. **N.M. Stat. Ann. § 30-40-1 - Failing to disclose facts or change of circumstances to obtain public assistance** A. Failing to disclose facts or change of circumstances to obtain public assistance consists of a person knowingly failing to disclose a material fact known to be necessary to determine eligibility for public assistance or knowingly failing to disclose a change in circumstances for the purpose of obtaining or continuing to receive public assistance to which the person is not entitled or in amounts greater than that to which the person is entitled. B. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is two hundred fifty dollars ($ 250) or less in any twelve consecutive months is guilty of a petty misdemeanor. C. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is more than two hundred fifty dollars ($ 250) but not more than five hundred dollars ($ 500) in any twelve consecutive months is guilty of a misdemeanor. D. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is more than five hundred dollars ($ 500) but not more than two thousand five hundred dollars ($ 2,500) in any twelve consecutive months is guilty of a fourth degree felony. E. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is more than two thousand five hundred dollars ($ 2,500) but not more than twenty thousand dollars ($ 20,000) in any twelve consecutive months is guilty of a third degree felony. F. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received exceeds twenty thousand dollars ($ 20,000) in any twelve consecutive months is guilty of a second degree felony. **HISTORY:** Laws 1979, ch. 170, § 1; 1987, ch. 121, § 12; *2006, ch. 29, § 18*.

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	N.M. Stat. Ann. § 30-40-2 - Unlawful use of food stamp identification card or medical identification card A. Unlawful use of food stamp identification card or medical identification card consists of the use of a food stamp or medical identification card by a person to whom it has not been issued, or who is not an authorized representative of the person to whom it has been issued, for a food stamp allotment. B. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is two hundred fifty dollars ($ 250) or less is guilty of a petty misdemeanor. C. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is more than two hundred fifty dollars ($ 250) but not more than five hundred dollars ($ 500) is guilty of a misdemeanor. D. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is more than five hundred dollars ($ 500) but not more than two thousand five hundred dollars ($ 2,500) is guilty of a fourth degree felony. E. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is more than two thousand five hundred dollars ($ 2,500) but not more than twenty thousand dollars ($ 20,000) is guilty of a third degree felony. F. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received exceeds twenty thousand dollars ($ 20,000) is guilty of a second degree felony. G. For the purpose of this section, the value of the medical assistance received is the amount paid by the human services department for medical services received through use of the medical identification card. **HISTORY:** Laws 1979, ch. 170, § 2; 1987, ch. 121, § 13; *2006, ch. 29, § 19*. **N.M. Stat. Ann. § 30-40-3 - Misappropriating public assistance** A. Misappropriating public assistance consists of a public officer or public employee fraudulently misappropriating, attempting to misappropriate or aiding and abetting in the misappropriation of food stamp coupons, WIC checks pertaining to the special supplemental food program for women, infants and children administered by the human services department, food stamp or medical identification cards, public assistance benefits or funds received in exchange for food stamp coupons. B. Whoever commits misappropriating public assistance when the value of the thing misappropriated is two hundred fifty dollars ($ 250) or less is guilty of a petty misdemeanor. C. Whoever commits misappropriating public assistance when the value of the thing misappropriated is more than two hundred fifty dollars ($ 250) but not more than five hundred dollars ($ 500) is guilty of a misdemeanor. D. Whoever commits misappropriating public assistance when the value of the thing misappropriated is more than five hundred dollars ($ 500) but not more than two thousand five hundred dollars ($ 2,500) is guilty of a fourth degree felony. E. Whoever commits misappropriating public assistance when the value of the thing misappropriated is more than two thousand five hundred dollars ($ 2,500) but not more than twenty thousand dollars ($ 20,000) is guilty of a third degree felony. F. Whoever commits misappropriating public assistance when the value of the thing misappropriated exceeds twenty thousand dollars ($ 20,000) is guilty of a second degree felony. G. Whoever commits misappropriating public assistance when the item misappropriated is a food stamp or medical identification card is guilty of a fourth degree felony. **HISTORY:** Laws 1979, ch. 170, § 3; 1987, ch. 121, § 14; *2006, ch. 29, § 20*.

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	N.M. Stat. Ann. § 30-40-4 - Making or permitting a false claim for reimbursement for public assistance services A. Making or permitting a false claim for reimbursement of public assistance services consists of knowingly making, causing to be made or permitting to be made a claim for reimbursement for services provided to a recipient of public assistance for services not rendered or making a false material statement or forged signature upon any claim for services, with intent that the claim shall be relied upon for the expenditure of public money. B. Whoever commits making or permitting a false claim for reimbursement for public assistance services is guilty of a fourth degree felony. **HISTORY:** Laws 1979, ch. 170, § 4. **N.M. Stat. Ann. § 30-40-5 - Unlawful seeking [of] payment from public assistance recipients** A. Unlawful seeking [of] payment from public assistance recipients consists of knowingly seeking payment from recipients or their families for any unpaid portion of a bill for which reimbursement has been or will be received from the human services department or for claims or services denied by the human services department because of provider [the provider's] administrative error. B. Whoever commits unlawful seeking [of] payment from [a] public assistance recipient is guilty of a misdemeanor. **HISTORY:** Laws 1979, ch. 170, § 5. **N.M. Stat. Ann. § 30-40-6 - Failure to reimburse the human services department upon receipt of third party payment** A. Failure to reimburse the human services department upon receipt of third party payment consists of knowing failure by a Medicaid provider to reimburse the human services department or the department's fiscal agent the amount of payment received from the department for services when the provider receives payment for the same services from a third party. B. A Medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is two hundred fifty dollars ($ 250) or less is guilty of a petty misdemeanor. C. A Medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is more than two hundred fifty dollars ($ 250) but not more than five hundred dollars ($ 500) is guilty of a misdemeanor. D. A Medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is more than five hundred dollars ($ 500) but not more than two thousand five hundred dollars ($ 2,500) is guilty of a fourth degree felony. E. A Medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is more than two thousand five hundred dollars ($ 2,500) but not more than twenty thousand dollars ($ 20,000) is guilty of a third degree felony. F. A Medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department exceeds twenty thousand dollars ($ 20,000) is guilty of a second degree felony. **HISTORY:** Laws 1979, ch. 170, § 6; 1987, ch 121, § 15; *2006, ch. 29, § 21*. **N.M. Stat. Ann. § 30-40-7 - Failure to notify the department of receipt of anything of value from public assistance recipient** Any employee of the human services department who knowingly receives anything of value, other than as provided by law, from either a recipient of public assistance or from the family of a public assistance recipient shall notify the department within ten days after such receipt on a form provided by the department. Whoever fails to so notify the department within ten days is guilty of a petty misdemeanor. **HISTORY:** Laws 1979, ch. 170, § 7.

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	N.M. Stat. Ann. § 30-44-1 Short title - "**Medicaid Fraud Act**". N.M. Stat. Ann. § 30-44-2 - § 30-44-2. Definitions As used in the Medicaid Fraud Act [*30-44-1 NMSA* 1978] this article]: A. "benefit" means money, treatment, services, goods or anything of value authorized under the program; B. "claim" means any communication, whether oral, written, electronic or magnetic, that identifies a treatment, good or service as reimbursable under the program; C. "cost document" means any cost report or similar document that states income or expenses and is used to determine a cost reimbursement based rate of payment for a provider under the program; D. "covered person" means an individual who is entitled to receive health care benefits from a managed health care plan; E. "department" means the human services department; F. "entity" means a person other than an individual and includes corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and political subdivisions thereof and nonprofit organizations; G. "great physical harm" means physical harm of a type that causes physical loss of a bodily member or organ or functional loss of a bodily member or organ for a prolonged period of time; H. "great psychological harm" means psychological harm that causes mental or emotional incapacitation for a prolonged period of time or that causes extreme behavioral change or severe physical symptoms or that requires psychological or psychiatric care; I. "health care official" means: (1) an administrator, officer, trustee, fiduciary, custodian, counsel, agent or employee of a managed care health plan; (2) an officer, counsel, agent or employee of an organization that provides, proposes to or contracts to provide services to a managed health care plan; or (3) an official, employee or agent of a state or federal agency with regulatory or administrative authority over a managed health care plan; J. "managed health care plan" means a government-sponsored health benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with or employed by a health care insurer or provider service network. A "managed health care plan" includes the health care services offered by a health maintenance organization, preferred provider organization, health care insurer, provider service network, entity or person that contracts to provide or provides goods or services that are reimbursed by or are a required benefit of a state or federally funded health benefit program, or any person or entity who contracts to provide goods or services to the program; K. "person" includes individuals, corporations, partnerships and other associations; L. "physical harm" means an injury to the body that causes pain or incapacitation; M. "program" means the medical assistance program authorized under Title XIX of the federal Social Security Act, *42 U.S.C. 1396,* et seq. and implemented under *Section 27-2-12 NMSA* 1978;

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	N. "provider" means any person who has applied to participate or who participates in the program as a supplier of treatment, services or goods; O. "psychological harm" means emotional or psychological damage of such a nature as to cause fear, humiliation or distress or to impair a person's ability to enjoy the normal process of his life; P. "recipient" means any individual who receives or requests benefits under the program; Q. "records" means any medical or business documentation, however recorded, relating to the treatment or care of any recipient, to services or goods provided to any recipient or to reimbursement for treatment, services or goods, including any documentation required to be retained by regulations of the program; and R. "unit" means the medicaid fraud control unit or any other agency with power to investigate or prosecute fraud and abuse of the program. **HISTORY:** *Laws 1989, ch. 286, § 2*; *1997, ch. 98, § 2*. N.M. Stat. Ann. § 30-44-3 - Power to investigate and enforce civil remedies and prosecute criminal actions A. The attorney general, the district attorneys, the unit and the department have the power and authority to investigate violations of the Medicaid Fraud Act [*30-44-1 NMSA* 1978] and bring actions to enforce the civil remedies established in the Medicaid Fraud Act. B. The attorney general, the district attorneys and those attorneys who are employees of the unit to whom the attorney general or a district attorney has, by appointment made through a joint powers agreement or other agreement for that purpose, delegated criminal prosecutorial responsibility, shall have the power and authority to prosecute persons for the violation of criminal provisions of the Medicaid Fraud Act [*30-44-1 NMSA* 1978] and for criminal offenses that are not defined in the Medicaid Fraud Act, but that involve or are directly related to the use of medicaid program funds or services provided through medicaid programs. **HISTORY:** *Laws 1989, ch. 286, § 3*; *1991, ch. 79, § 1*. **N.M. Stat. Ann. § 30-44-4 - Falsification of documents; defined; penalties** A. Falsification of documents consists of: (1) knowingly making or causing to be made a misrepresentation of a material fact required to be furnished under the program or knowingly failing or causing the failure to include a material fact required to be furnished under the program in any record required to be retained in connection with the program pursuant to the Medicaid Fraud Act [*30-44-1 NMSA* 1978] or regulations issued by the department for the administration of the program, or both; or (2) knowingly submitting or causing to be submitted false or incomplete information for the purpose of receiving benefits or qualifying as a provider. B. Whoever commits the crime of falsification of documents is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. **HISTORY:** *Laws 1989, ch. 286, § 4*. **N.M. Stat. Ann. § 30-44-5 - Failure to retain records; defined; penalties** A. Whoever receives payment for treatment, services or goods under the program shall retain all medical and business records relating to: (1) the treatment or care of any recipient; (2) services or goods provided to any recipient; (3) rates paid by the department under the program on behalf of any recipient; and

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	(4) any records required to be maintained by regulation of the department for administration of the program. B. Failure to retain records consists of intentionally failing to retain the records specified in Subsection A of this section for a period of at least five years from the date payment was received or knowingly destroying or causing those records to be destroyed within five years from the date payment was received. C. Whoever commits the crime of failure to retain records: (1) is guilty of a misdemeanor if the treatment, services or goods for which records were not retained amounts to not more than one thousand dollars ($ 1,000) and shall be sentenced pursuant to *Section 31-19-1 NMSA* 1978; (2) is guilty of a fourth degree felony if the value of the treatment, services or goods for which records were not retained is more than one thousand dollars ($ 1,000) and shall be sentenced pursuant to the provisions of Section 13-18-15 NMSA 1978; and (3) is guilty of a misdemeanor if the records not retained were used in whole or in part to determine a rate of payment under the program and shall be sentenced pursuant to *Section 31-19-1 NMSA* 1978. **HISTORY:** *Laws 1989, ch. 286, § 5*. **N.M. Stat. Ann. § 30-44-6 - Obstruction of investigation; defined; penalty** A. Obstruction of investigation consists of: (1) knowingly providing false information to, or knowingly withholding information from, any person authorized under the Medicaid Fraud Act [*30-44-1 NMSA* 1978] to investigate violations of that act or to enforce the criminal or civil remedies of that act where that information is material to the investigation or enforcement; or (2) knowingly altering any document or record required to be retained pursuant to the Medicaid Fraud Act [*30-44-1 NMSA* 1978] or any regulation issued by the department, or both, when the alteration is intended to mislead an investigation and concerns information material to that investigation. B. Whoever commits obstruction of investigation is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. **HISTORY:** *Laws 1989, ch. 286, § 6*. **N.M. Stat. Ann. § 30-44-7 - Medicaid fraud; defined; investigation; penalties** A. Medicaid fraud consists of: (1) paying, soliciting, offering or receiving: (a) a kickback or bribe in connection with the furnishing of treatment, services or goods for which payment is or may be made in whole or in part under the program, including an offer or promise to, or a solicitation or acceptance by, a health care official of anything of value with intent to influence a decision or commit a fraud affecting a state or federally funded or mandated managed health care plan; (b) a rebate of a fee or charge made to a provider for referring a recipient to a provider; (c) anything of value, intending to retain it and knowing it to be in excess of amounts authorized under the program, as a precondition of providing treatment, care, services or goods or as a requirement for continued provision of treatment, care, services or goods; or (d) anything of value, intending to retain it and knowing it to be in excess of the rates established under the program for the provision of treatment, services or goods;

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	(2) providing with intent that a claim be relied upon for the expenditure of public money: (a) treatment, services or goods that have not been ordered by a treating physician; (b) treatment that is substantially inadequate when compared to generally recognized standards within the discipline or industry; or (c) merchandise that has been adulterated, debased or mislabeled or is outdated; (3) presenting or causing to be presented for allowance or payment with intent that a claim be relied upon for the expenditure of public money any false, fraudulent, excessive, multiple or incomplete claim for furnishing treatment, services or goods; or (4) executing or conspiring to execute a plan or action to: (a) defraud a state or federally funded or mandated managed health care plan in connection with the delivery of or payment for health care benefits, including engaging in any intentionally deceptive marketing practice in connection with proposing, offering, selling, soliciting or providing any health care service in a state or federally funded or mandated managed health care plan; or (b) obtain by means of false or fraudulent representation or promise anything of value in connection with the delivery of or payment for health care benefits that are in whole or in part paid for or reimbursed or subsidized by a state or federally funded or mandated managed health care plan. This includes representations or statements of financial information, enrollment claims, demographic statistics, encounter data, health services available or rendered and the qualifications of persons rendering health care or ancillary services. B. Except as otherwise provided for in this section regarding the payment of fines by an entity, whoever commits Medicaid fraud as described in Paragraph (1) or (3) of Subsection A of this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. C. Except as otherwise provided for in this section regarding the payment of fines by an entity, whoever commits Medicaid fraud as described in Paragraph (2) or (4) of Subsection A of this section when the value of the benefit, treatment, services or goods improperly provided is: (1) not more than one hundred dollars ($ 100) is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of *Section 31-19-1 NMSA* 1978; (2) more than one hundred dollars ($ 100) but not more than two hundred fifty dollars ($ 250) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of *Section 31-19-1 NMSA* 1978; (3) more than two hundred fifty dollars ($ 250) but not more than two thousand five hundred dollars ($ 2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978; (4) more than two thousand five hundred dollars ($ 2,500) but not more than twenty thousand dollars ($ 20,000) shall be guilty of a third degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978; and (5) more than twenty thousand dollars ($ 20,000) shall be guilty of a second degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. D. Except as otherwise provided for in this section regarding the payment of fines by an entity, whoever commits Medicaid fraud when the fraud results in physical harm or psychological harm to a recipient is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. E. Except as otherwise provided for in this section regarding the payment of fines by an entity, whoever commits Medicaid fraud when the fraud results in great physical harm or great psychological harm to a recipient is guilty of a third degree felony and shall be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. F. Except as otherwise provided for in this section regarding the payment of fines by an entity, whoever commits Medicaid fraud when the fraud results in death to a recipient is guilty of a second degree felony and shall

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	be sentenced pursuant to the provisions of *Section 31-18-15 NMSA* 1978. G. If the person who commits Medicaid fraud is an entity rather than an individual, the entity shall be subject to a fine of not more than fifty thousand dollars ($ 50,000) for each misdemeanor and not more than two hundred fifty thousand dollars ($ 250,000) for each felony. H. The unit shall coordinate with the human services department, department of health and children, youth and families department to develop a joint protocol establishing responsibilities and procedures, including prompt and appropriate referrals and necessary action regarding allegations of program fraud, to ensure prompt investigation of suspected fraud upon the Medicaid program by any provider. These departments shall participate in the joint protocol and enter into a memorandum of understanding defining procedures for coordination of investigations of fraud by Medicaid providers to eliminate duplication and fragmentation of resources. The memorandum of understanding shall further provide procedures for reporting to the legislative finance committee the results of all investigations every calendar quarter. The unit shall report to the legislative finance committee a detailed disposition of recoveries and distribution of proceeds every calendar quarter. **HISTORY:** *Laws 1989, ch. 286, § 7*; *1997, ch. 98, § 3*; *2003, ch. 291, § 1*. **N.M. Stat. Ann. § 30-44-8 - Civil penalties; created; enumerated; presumption; limitation of action** A. Any person who receives payment for furnishing treatment, services or goods under the program, which payment the person is not entitled to receive by reason of a violation of the Medicaid Fraud Act [*30-44-1 NMSA* 1978], shall, in addition to any other penalties or amounts provided by law, be liable for: (1) payment of interest on the amount of the excess payments at the maximum legal rate in effect on the date the payment was made, for the period from the date payment was made to the date of repayment to the state; (2) a civil penalty in an amount of up to three times the amount of excess payments; (3) payment of a civil penalty of up to ten thousand dollars ($ 10,000) for each false or fraudulent claim submitted or representation made for providing treatment, services or goods; and (4) payment of legal fees and costs of investigation and enforcement of civil remedies. B. Interest amounts, legal fees and costs of enforcement of civil remedies assessed under this section shall be remitted to the state treasurer for deposit in the general fund. C. Any penalties and costs of investigation recovered on behalf of the state shall be remitted to the state treasurer for deposit in the general fund except an amount not to exceed two hundred fifty thousand dollars ($ 250,000) in fiscal year 2004, one hundred twenty-five thousand dollars ($ 125,000) in fiscal year 2005 and seventy-five thousand dollars ($ 75,000) in fiscal year 2006 may be retained by the unit and expended, consistent with federal regulations and state law, for the purpose of carrying out the unit's duties. D. A criminal action need not be brought against a person as a condition precedent to enforcement of civil liability under the Medicaid Fraud Act [*30-44-1 NMSA* 1978]. E. The remedies under this section are separate from and cumulative to any other administrative and civil remedies available under federal or state law or regulation. F. The department may adopt regulations for the administration of the civil penalties contained in this section. G. No action under this section shall be brought after the expiration of five years from the date the action accrues. **HISTORY:** *Laws 1989, ch. 286, § 8*; *1997, ch. 98, § 4*; *2004, ch. 54, § 1*.
	Qui Tam Actions & Remedies
	N.M. Stat. Ann. § 27-14-7 - Civil action for false claims

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	A. The department shall diligently investigate suspected violations. If the department finds that a person has violated or is violating the provisions of the Medicaid False Claims Act [*27-14-1 NMSA* 1978], the department may bring a civil action pursuant to Subsection F of this section. B. A private civil action may be brought by an affected person for a violation of the Medicaid False Claims Act [*27-14-1 NMSA* 1978] on behalf of the person bringing suit and for the state. The action shall be brought in the name of the state. The action may be dismissed if the court and the department, pursuant to Subsection F of this section, give written consent to the dismissal and their reasons for consenting. C. For private civil actions, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the department. The complaint shall be filed in writing and shall remain under seal for at least sixty days. The complaint shall not be served on the defendant until the expiration of sixty days or any extension approved. Within sixty days after receiving a copy of the complaint, the department shall conduct an investigation of the factual allegations and legal contentions made in the complaint, shall make a written determination of whether there is substantial evidence that a violation has occurred and shall provide the person against which a complaint has been made with a copy of the determination. If the department determines that there is not substantial evidence that a violation has occurred, the complaint shall be dismissed. D. The department may, for good cause shown, move the court for extensions of time during which the complaint remains under seal. Any such motion may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to a complaint filed pursuant to this section until twenty days after the complaint is unsealed and served to the defendant. The complaint shall be deemed unsealed at the expiration of the sixty-day period in the absence of a court-approved extension. E. Before the expiration of the sixty-day period or any extensions obtained, the department, pursuant to Subsection F of this section, shall: (1) proceed with the action, in which case the action shall be conducted by the department; or (2) notify the court and the person who brought the action that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action if the department determined that there is substantial evidence that a violation of the Medicaid False Claims Act [*27-14-1 NMSA* 1978] has occurred. F. The department shall notify the attorney general prior to filing a civil action pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] and shall not proceed with the action except with the written approval of the attorney general. The attorney general shall, within twenty working days from the notification by the department, notify the department whether it may proceed with the civil action. Failure by the attorney general to notify the department of its determination within the specified time period shall be construed as consent to proceed. The department shall, after filing the civil action, notify the attorney general of any proposed dismissal or settlement and the department shall not proceed with the dismissal or settlement except with the written approval of the attorney general. **HISTORY:** *Laws 2004, ch. 49, § 7*. ***N.M. Stat. Ann. § 27-14-8* - Rights of the parties to qui tam actions** A. If the department proceeds with the action, it shall have the exclusive responsibility for prosecuting the action and shall not be bound by an act of the person bringing the action. The person bringing the action shall have the right to continue as a nominal party to the action and shall not have the right to participate in the litigation except as a witness. B. The department may dismiss the action, pursuant to Subsection F of Section 7 [*27-14-7 NMSA* 1978] of the Medicaid False Claims Act, notwithstanding the objections of the person bringing the action if the person has been notified by the department of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion. C. The department may settle the action with the defendant, pursuant to Subsection F of Section 7 [*27-14-7 NMSA* 1978] of the Medicaid False Claims Act, notwithstanding the objections of the person bringing the action if the court determines, after the hearing, that the proposed settlement is fair, adequate and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. D. If the state elects not to proceed with the action, the person bringing the action shall have the right to conduct the action. If the department requests, it shall be served with copies of the pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the department's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person bringing the action, may allow the department to intervene at a later date upon a showing of good cause. E. Whether or not the department proceeds with the action, upon a showing by the department that certain actions of discovery by the person bringing the action would interfere with the department's investigation or prosecution of a civil matter arising out of the same facts, the court may stay such discovery for a period not to exceed sixty days. Such a showing shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the department has pursued the civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing civil investigation or proceedings.

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	HISTORY: Laws 2004, ch. 49, § 8. **N.M. Stat. Ann. § 27-14-9 - Award to qui tam plaintiff** A. If the department proceeds with an action brought by a person pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978], the person shall, subject to the limitations in this subsection, receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information other than information provided by the party bringing the action relating to allegations or transactions in a criminal, civil or administrative hearing or from the news media, the court shall award a sum as it considers appropriate; provided that the sum does not exceed ten percent of the proceeds and takes into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. A payment to a person pursuant to this subsection shall be made from the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. In determining the amount of reasonable attorney fees and costs, the court shall consider whether such fees and costs were necessary to the prosecution of the action, were incurred for activities that were duplicative of the activities of the department in prosecuting the case or were repetitious, irrelevant or for purposes of harassment or caused the defendant undue burden or unnecessary expense. All such expenses, fees and costs shall be awarded against the defendant. B. If the department does not proceed with an action pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978], the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil recovery and damages recoverable by the state. The amount shall be not less than twenty-five percent and not more than thirty percent of the proceeds of the action or settlement and shall be paid out of such proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. In determining the amount of reasonable attorney fees and costs, the court shall consider whether such fees and costs were necessary to the prosecution of the action, were incurred for activities, which were repetitious, irrelevant or for purposes of harassment or caused the defendant undue burden or unnecessary expense. All such expenses, fees and costs shall be awarded against the defendant. C. Whether or not the department proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the party would otherwise receive pursuant to Subsection A or B of this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of the Medicaid False Claims Act [*27-14-1 NMSA* 1978], that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the state to continue the action represented by the department. If the department does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney fees and costs if the defendant prevails in the action and the court finds that the claim of the party bringing the action was: (1) filed for an improper purpose; (2) not warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law; or (3) was based on allegations or factual contentions not supported. **HISTORY:** *Laws 2004, ch. 49, § 9*. ***N.M. Stat. Ann. § 27-14-10* - Certain actions barred** A. A court shall not have jurisdiction of an action brought pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] against a department official if the action is substantially based on evidence or information known to the department when the action was brought. B. A person shall not bring an action pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] that is substantially based upon allegations or transactions that are the subject of a civil suit or an administrative proceeding in which the department is already a party. C. A court shall not have jurisdiction over an action pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] substantially based upon the public disclosure of allegations or actions in a criminal, civil or administrative hearing or from the news media, unless the action is brought by the department or the person bringing the action is an original source of the information. For the purposes of this subsection, "original source" means the person bringing suit that has independent knowledge, including knowledge based on the person's own investigation of the defendant's conduct, of the information on which the allegations are based and has voluntarily provided or verified the information on which the allegations are based or has voluntarily provided the information to the department before filing an action pursuant to this section that is based on the information.

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	HISTORY: Laws 2004, ch. 49, § 10. ***N.M. Stat. Ann. § 27-14-11* - Department not liable for certain expenses** The department shall not be liable for expenses that a person incurs in bringing an action pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978]. **HISTORY:** Laws 2004, ch. 49, § 11 ***N.M. Stat. Ann. § 27-14-13* - False claims and reporting procedure** A. A civil action shall be brought within the limitations set forth in *Section 37-1-4 NMSA* 1978. B. In any action brought pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978], the department or the person bringing the action shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence. C. Notwithstanding any other provision of law, a final judgment rendered in favor of the department in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty, shall preclude the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and that is brought pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978]. **HISTORY:** Laws 2004, ch. 49, § 13. ***N.M. Stat. Ann. § 27-14-14* - Application of other law** The application of a civil remedy pursuant to this law does not preclude the application of other laws, statutes or regulatory remedy, except that a person may not be liable for a civil remedy pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] and civil damages or recovery pursuant to the Medicaid Fraud Act [*30-44-1 NMSA* 1978] if the civil remedy and the civil damages or recoveries are assessed for the same conduct by another government agency. **HISTORY:** Laws 2004, ch. 49, § 14. **N.M. Stat. Ann. § 27-14-15 - Use of funds** A. Damages collected pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] on behalf of the state shall be remitted to the state treasurer for deposit in the general fund to be used for the state's medicaid program. B. Penalties, legal fees or costs of investigation recovered pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] on behalf of the state shall be remitted to the state treasurer for deposit in the general fund to be used for the state's medicaid program. C. Pursuant to Subsection C of *Section 30-44-8 NMSA* 1978, penalties recovered pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978] on behalf of the state may be claimed by the attorney general pursuant to procedures established by the department and the attorney general. **HISTORY:** *Laws 2004, ch. 49, § 15*. **FRAUD AGAINST TAXPAYERS ACT** ***N.M. Stat. Ann. § 44-9-4* - Investigation by the attorney general; delegation; civil action** A. The attorney general shall diligently investigate suspected violations of *Section 44-9-3 NMSA 1978*, and if the attorney general finds that a person has violated or is violating that section, the attorney general may bring a civil action against that person pursuant to the Fraud Against Taxpayers Act. B. The attorney general may in appropriate cases delegate the authority to investigate or to bring a civil action to the state agency or political subdivision to which a false claim was made, and when this occurs, the state agency or political subdivision shall have every power conferred upon the attorney general pursuant to the Fraud Against Taxpayers Act. If the attorney general has delegated authority to a state agency **or political subdivision, all references to the attorney general in the Fraud Against Taxpayers Act shall apply to the delegee.** **Credits** **Added by *L. 2007, Ch. 40, § 4, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 3, eff. June 19, 2015.***

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	N.M. Stat. Ann. § 44-9-5 - **Civil action by qui tam plaintiff; state or political subdivision may intervene** *Currentness* A. A person may bring a civil action for a violation of *Section 44-9-3 NMSA 1978* on behalf of the person and the state or political subdivision. The action shall be brought in the name of the state or political subdivision. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed only with the written consent of the court, taking into account the best interest of the parties involved and the public purposes behind the Fraud Against Taxpayers Act. B. A complaint filed by a qui tam plaintiff shall be filed in camera in district court and shall remain under seal for at least sixty days. No service shall be made on a defendant and no response is required from a defendant until the seal has been lifted and the complaint served pursuant to the rules of civil procedure. C. On the same day as the complaint is filed, the qui tam plaintiff shall serve the attorney general, and the political subdivision, if applicable, with a copy of the complaint and written disclosure of substantially all material evidence and information the qui tam plaintiff possesses. The attorney general on behalf of the state or the political subdivision, or the political subdivision on its own behalf, may intervene and proceed with the action within sixty days after receiving the complaint and the material evidence and information. Upon a showing of good cause and reasonable diligence in the state's or political subdivision's investigation, the state or political subdivision may move the court for an extension of time during which the complaint shall remain under seal. D. Before the expiration of the sixty-day period or any extensions of time granted by the court, the attorney general or political subdivision shall notify the court that the state or the political subdivision: (1) intends to intervene and proceed with the action; in which case, the seal shall be lifted and the action shall be conducted by the attorney general on behalf of the state or the political subdivision, or the political subdivision shall conduct the action on its own behalf; or (2) declines to take over the action; in which case the seal shall be lifted and the qui tam plaintiff may proceed with the action. E. When a person brings an action pursuant to this section, no person other than the attorney general on behalf of the state or a political subdivision, or a political subdivision on its own behalf, may intervene or bring a related action based on the facts underlying the pending action. **Credits** **Added by** *L. 2007, Ch. 40, § 5, eff. July 1, 2007.* **Amended by** *L. 2015, Ch. 128, § 4, eff. June 19, 2015.* ***N.M. Stat. Ann. § 44-9-6*** **Rights of the qui tam plaintiff and the state or political subdivision** *Currentness* A. If the state or political subdivision proceeds with the action, it shall have the primary responsibility of prosecuting the action and shall not be bound by an act of the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations of this section. B. The state or political subdivision may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity to oppose the motion and to present evidence at a hearing. C. The state or political subdivision may settle the action with the defendant notwithstanding any objection by the qui tam plaintiff if the court determines, after a hearing providing the qui tam plaintiff an opportunity to present evidence, that the proposed settlement is fair, adequate and reasonable under all of the circumstances. D. Upon a showing by the state or political subdivision that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the prosecution of the case, or would be repetitious, irrelevant or for the purpose of harassment, the court may, in its discretion, impose limitations on the qui tam plaintiff's participation, such as: (1) limiting the number of witnesses the qui tam plaintiff may call; (2) limiting the length of testimony of such witnesses; (3) limiting the qui tam plaintiff's cross examination of witnesses; or (4) otherwise limiting the qui tam plaintiff's participation in the litigation. E. Upon a showing by a defendant that unrestricted participation during the course of litigation by the qui tam plaintiff would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation. F. If the state or political subdivision elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the attorney general or political subdivision so requests, the qui tam plaintiff shall serve the attorney general or political subdivision with copies of all pleadings filed in the action and all deposition transcripts in the case, at the state's or political subdivision's expense. When the qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the attorney general or political subdivision to intervene at a later date upon a showing of good cause. G. Whether or not the state or political subdivision proceeds with the action, upon a showing by the attorney general on behalf of the state or political subdivision, or a political subdivision on its own behalf, that certain actions of discovery by the qui tam plaintiff would interfere with an investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than

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	sixty days. The showing by the state or political subdivision shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the state or political subdivision has pursued the criminal or civil investigation or proceeding with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceeding. H. Notwithstanding the provisions of *Section 44-9-5 NMSA 1978*, the attorney general or political subdivision may elect to pursue the state's or political subdivision's claim through any alternate remedy available, including an administrative proceeding to determine a civil money penalty. If an alternate remedy is pursued, the qui tam plaintiff shall have the same rights in such a proceeding as the qui tam plaintiff would have had if the action had continued pursuant to this section. A finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under the Fraud Against Taxpayers Act. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing an **appeal with respect to the finding or conclusion has expired or if the finding or conclusion is not subject to judicial review.** **Credits** **Added by *L. 2007, Ch. 40, § 6, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 5, eff. June 19, 2015.*** **N.M. Stat. Ann. § 44-9-7** - **Awards to qui tam plaintiff and the state or political subdivision** *Currentness* A. Except as otherwise provided in this section, if the state or a political subdivision proceeds with an action brought by a qui tam plaintiff and the state or political subdivision prevails in the action, the qui tam plaintiff shall receive: (1) at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action; or (2) no more than ten percent of the proceeds of the action or settlement if the court finds that the action was based primarily on disclosures of specific information, not provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, administrative or legislative hearing, proceeding, report, audit or investigation or from the news media, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation. However, if the attorney general or political subdivision determines and certifies in writing that the qui tam plaintiff provided a significant contribution in advancing the case, then the qui tam plaintiff shall receive the share of proceeds set forth in Paragraph (1) of this subsection. B. If the state or political subdivision does not proceed with an action brought by a qui tam plaintiff and the state or political subdivision prevails in the action, the qui tam plaintiff shall receive an amount that is not less than twenty-five percent or more than thirty percent of the proceeds of the action or settlement, as the court deems reasonable for collecting the civil penalty and damages. C. Whether or not the state or political subdivision proceeds with an action brought by a qui tam plaintiff: (1) if the court finds that the action was brought by a person that planned or initiated the violation of *Section 44-9-3 NMSA 1978* upon which the action was based, the court may reduce the share of the proceeds that the person would otherwise receive under Subsection A or B of this section, taking into account the role of the person as the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation; or (2) if the person bringing the action is convicted of criminal conduct arising from that person's role in the violation of *Section 44-9-3 NMSA 1978* upon which the action was based, that person shall be dismissed from the civil action and shall not receive a share of the proceeds. The dismissal shall not prejudice the right of the state or political subdivision to continue the action. D. Any award to a qui tam plaintiff shall be paid out of the proceeds of the action or settlement, if any. The qui tam plaintiff shall also receive an amount for reasonable expenses incurred in the action plus reasonable attorney fees that shall be paid by the defendant. E. The state or political subdivision is entitled to all proceeds collected in an action or settlement not awarded to a qui tam plaintiff. The state or political subdivision is also entitled to reasonable expenses incurred in the action plus reasonable attorney fees, including the fees of the attorney general or state agency counsel or counsel employed by the political subdivision that shall be paid by the defendant. F. Proceeds and penalties collected by the state or political subdivision shall be deposited as follows: (1) proceeds in the amount of the false claim paid and attorney fees and costs shall be returned to the fund or funds from which the money, property or services came; (2) civil penalties shall be deposited in the current school fund pursuant to *Article 12, Section 4 of the constitution of New Mexico*; (3) except as provided in Paragraph (4) of this subsection, all remaining proceeds shall be deposited as follows: (a) one-half into a fund for the use of the attorney general in furtherance of the obligations imposed upon that office by the Fraud Against Taxpayers Act; and (b) one-half into the general fund; or (4) remaining proceeds collected by counties or municipalities as political subdivisions acting on their own behalf shall be disposed of in accordance with the direction of the governing body of the county or municipality. **Credits** Added by *L. 2007, Ch. 40, § 7, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 6, eff. June 19, 2015.* ***N.M. Stat. Ann. § 44-9-8*** **- Award of attorney fees and costs to defendant**

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	If the state or political subdivision does not proceed with the action and the qui tam plaintiff conducts the action, the court may award a defendant reasonable attorney fees and costs if the defendant prevails and the court finds the action clearly frivolous, clearly vexatious or brought primarily for the purpose of harassment. **Credits** Added by *L. 2007, Ch. 40, § 8, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 7, eff. June 19, 2015.* ***N.M. Stat. Ann. § 44-9-9*** **- Certain actions barred** A. No court shall have jurisdiction over an action brought pursuant to *Section 44-9-5 NMSA 1978* by a present or former employee of the state or political subdivision unless the employee, during employment with the state or political subdivision and in good faith, exhausted existing internal procedures for reporting false claims and the state or political subdivision failed to act on the information provided within a reasonable period of time. B. No court shall have jurisdiction over an action brought pursuant to *Section 44-9-5 NMSA 1978* against an elected or appointed state official, a member of the state legislature or a member of the judiciary if the action is based on evidence or information known to the state agency to which the false claim was made or to the attorney general when the action was filed. C. Unless the attorney general or political subdivision determines and certifies in writing that the action is in the interest of the state or political subdivision, no court shall have jurisdiction over an action brought pursuant to *Section 44-9-5 NMSA 1978* when that action is based on allegations or transactions that are the subject of a criminal, civil or administrative proceeding in which the state or political subdivision is a party. D. Upon motion of the attorney general or political subdivision, a court may, in its discretion, dismiss an action brought pursuant to *Section 44-9-5 NMSA 1978* if the elements of the alleged false or fraudulent **claim have been publicly disclosed in the news media or in a publicly disseminated governmental report at the time the complaint is filed.** **Credits** **Added by *L. 2007, Ch. 40, § 9, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 8, eff. June 19, 2015.*** ***N.M. Stat. Ann. § 44-9-10*** **- State or political subdivision not liable** The state or political subdivision shall not be liable for expenses or fees that a qui tam plaintiff may incur in investigating or bringing an action pursuant to the Fraud Against Taxpayers Act. Credits **Added by *L. 2007, Ch. 40, § 10, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 9, eff. June 19, 2015.*** ***N.M. Stat. Ann. § 44-9-12*** **- Limitation of actions; estoppel; standard of proof** A. A civil action pursuant to the Fraud Against Taxpayers Act may be brought at any time. A civil action pursuant to the Fraud Against Taxpayers Act may be brought for conduct that occurred prior to the effective date of that act, but not for conduct that occurred prior to July 1, 1987. B. Notwithstanding any other provision of law, a final judgment rendered in a criminal proceeding charging fraud or false statement, whether upon a guilty verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of a fraud against taxpayers action where the criminal proceeding concerns the same transaction that is the subject of the fraud against taxpayers action. C. In an action brought pursuant to the Fraud Against Taxpayers Act, the state or political subdivision or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence. **Credits** **Added by *L. 2007, Ch. 40, § 12, eff. July 1, 2007.* Amended by *L. 2015, Ch. 128, § 10, eff. June 19, 2015.*** N.M. Stat. Ann. § 44-9-13 - Joint and several liability Liability shall be joint and several for any act committed by two or more persons in violation of the Fraud Against Taxpayers Act [*44-9-1 NMSA* 1978]. **HISTORY:** *Laws 2007, ch. 40, § 13*. ***N.M. Stat. Ann. § 44-9-14*** **- Remedy not exclusive** The remedies provided for in the Fraud Against Taxpayers Act [*44-9-1 NMSA* 1978] are not exclusive and shall be in addition to any other remedies provided for in any other law or available under common law. **HISTORY:** Laws 2007, ch. 40, § 14
	Whistle-blower Protections
	N.M. Stat. Ann. § 27-14-12 - Employee protection

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	Any employee who is discharged, demoted, suspended, threatened, harassed or otherwise discriminated against in the terms and conditions of employment by the employer because of lawful acts done by the employee on behalf of the employee or others in disclosing information to the department or in furthering a false claims action pursuant to the Medicaid False Claims Act [*27-14-1 NMSA* 1978], including investigation for, initiation of, testimony for or assistance in an action filed or to be filed pursuant to that act, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status that the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. An employee may bring an action in the appropriate court of the state for the relief provided in this subsection. **HISTORY:** *Laws 2004, ch. 49, § 12*. **FRAUD AGAINST TAXPAYERS ACT** N.M. Stat. Ann. § 44-9-11 **Employer interference with employee disclosure; private action for retaliation** A. An employer shall not make, adopt or enforce a rule, regulation or policy preventing an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a fraud against taxpayers action, including investigating, initiating, testifying or assisting in an action filed or to be filed pursuant to the Fraud Against Taxpayers Act [*44-9-1 NMSA* 1978]. B. An employer shall not discharge, demote, suspend, threaten, harass, deny promotion to or in any other manner discriminate against an employee in the terms and conditions of employment because of the lawful acts of the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a fraud against taxpayers action, including investigating, initiating, testifying or assisting in an action filed or to be filed pursuant to the Fraud Against Taxpayers Act [*44-9-1 NMSA* 1978]. C. An employer that violates Subsection B of this section shall be liable to the employee for all relief necessary to make the employee whole, including reinstatement with the same seniority status that the employee would have had but for the violation, two times the amount of back pay with interest on the back pay, compensation for any special damage sustained as a result of the violation and, if appropriate, punitive damages. In addition, an employer shall be required to pay the litigation costs and reasonable attorney fees of the employee. An employee may bring an action pursuant to this section in any court of competent jurisdiction. **HISTORY:** *Laws 2007, ch. 40, § 11*.
Ohio **OH ST §** 2913.40 **OH ST §**. 2913.401 **OH ST §** 5111.03 **OH ST §** 5164.35 **OH ST §** 2921.11 **OH ST §** 2921.13 OAC Ann. 5101:3-1-29 **OH ST §** 124.341 R.C. § 2913.47	**Criminal and Civil Penalties for False Claims and Statements** Other Helpful Information About Medicaid Fraud & Reporting Fraud *http://dodd.ohio.gov/Medicaid/Pages/Report-Medicaid-Fraud.aspx* *https://www.ohioattorneygeneral.gov/ReportMedicaidFraud* *https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud* OH ST § 2913.40 **- Medicaid fraud** R.C. § 2913.40 **2913.40 Medicaid fraud** *Currentness* (A) As used in this section: (1) "Statement or representation" means any oral, written, electronic, electronic impulse, or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medicaid program or that states income and expense and is or may be used to determine a rate of reimbursement under the medicaid program. (2) "Provider" means any person who has signed a provider agreement with the department of medicaid to provide goods or services pursuant to the medicaid program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medicaid program. (3) "Provider agreement" has the same meaning as in *section 5164.01 of the Revised Code*. (4) "Recipient" means any individual who receives goods or services from a provider under the medicaid program. (5) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the medicaid director to be kept for the medicaid program. (B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medicaid program. (C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

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	(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medicaid program any property, money, or other consideration in addition to the amount of reimbursement under the medicaid program and the person's provider agreement for the goods or services and any cost-sharing expenses authorized by *section 5162.20 of the Revised Code* or rules adopted by the medicaid director regarding the medicaid program. (2) Solicit, offer, or receive any remuneration, other than any cost-sharing expenses authorized by *section 5162.20 of the Revised Code* or rules adopted by the medicaid director regarding the medicaid program, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medicaid program. (D) No person, having submitted a claim for or provided goods or services under the medicaid program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medicaid program: (1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person; (2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person. (E) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of property, services, or funds obtained in violation of this section is one thousand dollars or more and is less than seven thousand five hundred dollars, medicaid fraud is a felony of the fifth degree. If the value of property, services, or funds obtained in violation of this section is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, medicaid fraud is a felony of the fourth degree. If the value of the property, services, or funds obtained in violation of this section is one hundred fifty thousand dollars or more, medicaid fraud is a felony of the third degree. (F) Upon application of the governmental agency, office, or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medicaid program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, *section 5164.35 of the Revised Code*, or any other provision of law. (G) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section. **CREDIT(S)** (*2013 H 59, eff. 9-29-13; 2011 H 86, eff. 9-30-11; 2007 H 119, eff. 9-29-07; 2005 H 66, eff. 9-29-05; 2002 S 261, eff. 6-5-02; 1999 H 471, eff. 7-1-00; 1995 S 2, eff. 7-1-96; 1989 H 672, eff. 11-14-89;* 1986 H 340) **OH ST § 2913.401 - Medicaid eligibility fraud** **R.C. § 2913.401** **2913.401 Medicaid eligibility fraud** ***Currentness*** **(**A) As used in this section: (1) "Medicaid services" has the same meaning as in *section 5164.01 of the Revised Code*. (2) "Property" means any real or personal property or other asset in which a person has any legal title or interest. (B) No person shall knowingly do any of the following in an application for enrollment in the medicaid program or in a document that requires a disclosure of assets for the purpose of determining eligibility for the medicaid program: (1) Make or cause to be made a false or misleading statement; (2) Conceal an interest in property; (3)(a) Except as provided in division (B)(3)(b) of this section, fail to disclose a transfer of property that occurred during the period beginning thirty-six months before submission of the application or document and ending on the date the application or document was submitted; (b) Fail to disclose a transfer of property that occurred during the period beginning sixty months before submission of the application or document and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for or recipient of medicaid or to a revocable trust. (C)(1) Whoever violates this section is guilty of medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the value of the medicaid services paid as a result of the violation is one thousand dollars or more and is less than seven thousand five hundred dollars, a violation of this section is a felony of the fifth degree. If the value of the medicaid services paid as a result of the violation is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a violation of this section is a felony of the fourth degree. If the value of the medicaid services paid as a result of the violation is one hundred fifty thousand dollars or more, a violation of this section is a felony of the third degree. (2) In addition to imposing a sentence under division (C)(1) of this section, the court shall order that a person who is guilty of medicaid eligibility fraud make restitution in the full amount of any medicaid services paid on behalf of an applicant for or recipient of medicaid for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the medicaid services were paid to the date on which restitution is made.

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	(3) The remedies and penalties provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section. (D) This section does not apply to a person who fully disclosed in an application for medicaid or in a document that requires a disclosure of assets for the purpose of determining eligibility for medicaid all of the interests in property of the applicant for or recipient of medicaid, all transfers of property by the applicant for or recipient of medicaid, and the circumstances of all those transfers. (E) Any amounts of medicaid services recovered as restitution under this section and any interest on those amounts shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States. **CREDIT(S)** **(*2013 H 59, eff. 9-29-13*; *2011 H 86, eff. 9-30-11*; *2005 H 66, eff. 9-29-05*)** **OH ST § 2913.47 - Insurance fraud (Effective until October 23, 2024)** (A) As used in this section: (1) "Data" has the same meaning as in *section 2913.01 of the Revised Code* and additionally includes any other representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner. (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information, or by any other conduct, act, or omission creates, confirms, or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind, or other objective or subjective fact. (3) "Insurer" means any person that is authorized to engage in the business of insurance in this state under Title XXXIX of the Revised Code, the Ohio fair plan underwriting association created under *section 3929.43 of the Revised Code*, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members. (4) "Policy" means a policy, certificate, contract, or plan that is issued by an insurer. (5) "Statement" includes, but is not limited to, any notice, letter, or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account, or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical, or dental chart or other record; x-ray, photograph, videotape, or movie film; test result; other evidence of loss, injury, or expense; computer-generated document; and data in any form. (B) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following: (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive; (2) Assist, aid, abet, solicit, procure, or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive. (C) Whoever violates this section is guilty of insurance fraud. Except as otherwise provided in this division, insurance fraud is a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars or more and is less than seven thousand five hundred dollars, insurance fraud is a felony of the fifth degree. If the amount of the claim that is false or deceptive is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, insurance fraud is a felony of the fourth degree. If the amount of the claim that is false or deceptive is one hundred fifty thousand dollars or more, insurance fraud is a felony of the third degree. (D) This section shall not be construed to abrogate, waive, or modify division (A) of *section 2317.02 of the Revised Code*. **History:** 143 v H 347 (Eff 7-18-90); *146 v S 2* (Eff 7-1-96); *146 v S 269* (Eff 7-1-96); *147 v S 67*. Eff 6-4-97; *2011 HB 86, § 1*, eff. Sept. 30, 2011. **Effective: October 24, 2024**

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RC 5111.03.	R.C. § 2913.47 **2913.47 Insurance fraud** *Currentness* (A) As used in this section: (1) "Data" has the same meaning as in *section 2913.01 of the Revised Code* and additionally includes any other representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner. (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information, or by any other conduct, act, or omission creates, confirms, or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind, or other objective or subjective fact. (3) "Insurer" means any person that is authorized to engage in the business of insurance in this state under Title XXXIX of the Revised Code, the Ohio fair plan underwriting association created under *section 3929.43 of the Revised Code*, the assigned risk plan created under *section 4509.70 of the Revised Code*, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members. (4) "Policy" means a policy, certificate, contract, or plan that is issued by an insurer. (5) "Statement" includes, but is not limited to, any notice, letter, or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account, or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical, or dental chart or other record; x-ray, photograph, videotape, or movie film; test result; other evidence of loss, injury, or expense; computer-generated document; and data in any form. (B) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following: (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive; (2) Assist, aid, abet, solicit, procure, or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive. (C) Whoever violates this section is guilty of insurance fraud. Except as otherwise provided in this division, insurance fraud is a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars or more and is less than seven thousand five hundred dollars, insurance fraud is a felony of the fifth degree. If the amount of the claim that is false or deceptive is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, insurance fraud is a felony of the fourth degree. If the amount of the claim that is false or deceptive is one hundred fifty thousand dollars or more, insurance fraud is a felony of the third degree. (D) This section shall not be construed to abrogate, waive, or modify *division (A) of section 2317.02 of the Revised Code*. **CREDIT(S)** (*2024 S 175, eff. 10-24-24; 2011 H 86, eff. 9-30-11; 1997 S 67, eff. 6-4-97; 1996 S 269, eff. 7-1-96; 1995 S 2, eff. 7-1-96; 1990 H 347, eff. 7-18-90*) **OH ST § 5164.35 - Offenses by providers; penalties; termination of agreement; exclusion of individual, provider, or entity** R.C. § 5164.35 Formerly cited as OH ST § 5111.03 **5164.35 Payments obtained by provider's deception; civil penalties and termination of provider agreement** *Currentness* (A) As used in this section, "owner" means any person having at least five per cent ownership in a medicaid provider. (B)(1) No medicaid provider shall do any of the following: (a) By deception, obtain or attempt to obtain payments under the medicaid program to which the provider is not entitled pursuant to the provider's provider agreement, or the rules of the federal government or the medicaid director relating to the program; (b) Willfully receive payments to which the provider is not entitled; (c) Willfully receive payments in a greater amount than that to which the provider is entitled; (d) Falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. (2) A medicaid provider engages in "deception" for the purpose of this section when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another,

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	including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a medicaid provider has engaged in deception. (C) Any medicaid provider who violates division (B) of this section shall be liable, in addition to any other penalties provided by law, for all of the following civil penalties: (1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under *section 1343.01 of the Revised Code* on the date the payment was made to the provider for a period determined by the department, not to exceed the period from the date upon which payment was made, to the date upon which repayment is made to the state; (2) Payment of an amount equal to three times the amount of any excess payments; (3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification; (4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section. (D) In addition to the civil penalties provided in division (C) of this section, the medicaid director, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to *section 109.85 of the Revised Code*, shall terminate the provider's provider agreement and stop payment to the provider for medicaid services rendered from the date of conviction or entry of judgment. No such medicaid provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide medicaid services on behalf of any other medicaid provider or risk contractor or arrange for, render, or order medicaid services for medicaid recipients, nor shall such provider, owner, officer, authorized agent, associate, manager, or employee receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor. The provider agreement shall not be terminated, and payment shall not be terminated, if the medicaid provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to *section 109.85 of the Revised Code*. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a provider agreement if the person can demonstrate that the person had no knowledge of an action of the medicaid provider the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to *section 109.85 of the Revised Code*. Nursing facility and ICF/IID providers whose provider agreements are terminated pursuant to this section may continue to receive medicaid payments for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer medicaid recipients to another facility or to alternate care and if federal financial participation is provided for the payments. (E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under this section with the approval of the department of medicaid. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates. (F) All moneys collected by the state pursuant to this section shall be deposited in the state treasury to the credit of the general revenue fund. **CREDIT(S)** (*2023 H 33, eff. 10-3-23*; *2013 H 59, eff. 9-29-13*)
	Qui Tam Actions & Remedies
	None found.
	Whistle-blower Protections
.	**OH ST 4113.51 - Definitions** As used in *sections 4113.51* to *4113.53 of the Revised Code*: (A) "Employee" means any person who performs a service for wages or other remuneration for an employer. (B) "Employer" means any person who has one or more employees. "Employer" includes an agent of an employer, the state or any agency or instrumentality of the state, and any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality thereof. (C) "Person" has the same meaning as in *section 1.59 of the Revised Code* and also includes a public agency or any other legal entity.

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	(D) "Peace officer" has the same meaning as in *section 2935.01 of the Revised Code*. (E) "Political subdivision" has the same meaning as in division (F) of *section 2744.01 of the Revised Code*. (F) "Prosecuting authority" means the prosecuting attorney of a county or the director of law, village solicitor, or similar chief legal officer of a municipal corporation. (G) "Inspector general" means the inspector general appointed under *section 121.48 of the Revised Code*. **History:** 142 v H 406 (Eff 6-29-88); 143 v H 588. Eff 10-31-90. **R.C. § 4113.52** **4113.52 Employees and officials to report violations of law; retaliatory conduct prohibited** *Currentness* (A)(1)(a) All state officials and employees employed by or appointed to a state agency as defined in *division (D) of section 121.41 of the Revised Code* shall report alleged fraud, theft in office, or the misuse or misappropriation of public money by a state official or employee to the inspector general. All other state employees and elected officials shall report fraud, theft in office, or the misuse or misappropriation of public money to the auditor of state's fraud-reporting system under *section 117.103 of the Revised Code*. (b) A person is required to make a report under division (A)(1)(c) of this section if the person meets any of the following: (i) The person is elected to local public office. (ii) The person is appointed to or within a local public office. (iii) The person has a fiduciary duty to a local public office. (iv) The person holds a supervisory position within a local public office. (v) The person is employed in the department or office responsible for processing any revenue or expenses of the local public office. (c) If a person identified in division (A)(1)(b) of this section, during the person's term of office or in the course of the person's employment, becomes aware of fraud, theft in office, or the misuse or misappropriation of public money, the person shall timely notify the auditor of state via the auditor of state's fraud-reporting system under *section 117.103 of the Revised Code* or via other means. (d) A person who serves as legal counsel, or who is employed as legal counsel, for a local public office or a state official or employee employed by or appointed to a state agency is not required to make a report under division (A)(1)(a) or (c) of this section concerning any communication received from a client in an attorney-client relationship.

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	(e) Divisions (A)(1)(a), (b), and (c) of this section do not apply to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, or to any employee of the prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation. (f) If a person becomes aware in the course of the person's employment of a violation of any state or federal statute or any ordinance or regulation of a political subdivision that the person's employer has authority to correct, and the person reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution, the person orally shall notify the person's supervisor or other responsible officer of the person's employer of the violation and subsequently shall file with that supervisor or officer a written report that provides sufficient detail to identify and describe the violation. If the employer does not correct the violation or make a reasonable and good faith effort to correct the violation within twenty-four hours after the oral notification or the receipt of the report, whichever is earlier, the person may file a written report that provides sufficient detail to identify and describe the violation with the prosecuting authority of the county or municipal corporation where the violation occurred, with a peace officer, with the inspector general if the violation is within the inspector general's jurisdiction, with the auditor of state's fraud-reporting system under *section 117.103 of the Revised Code* if applicable, or with any other appropriate public official or agency that has regulatory authority over the employer and the industry, trade, or business in which the employer is engaged. (g) If a person makes a report under division (A)(1)(f) of this section, the employer, within twenty-four hours after the oral notification was made or the report was received or by the close of business on the next regular business day following the day on which the oral notification was made or the report was received, whichever is later, shall notify the person, in writing, of any effort of the employer to correct the alleged violation or hazard or of the absence of the alleged violation or hazard. (2) If a person becomes aware in the course of the person's employment of a violation of Chapter 3704., 3734., 6109., or 6111. of the Revised Code that is a criminal offense, the person directly may notify, either orally or in writing, any appropriate public official or agency that has regulatory authority over the employer and the industry, trade, or business in which the employer is engaged. (3) If a person becomes aware in the course of the person's employment of a violation by a fellow employee of any state or federal statute, any ordinance or regulation of a political subdivision, or any work rule or company policy of the person's employer and the person reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution, the person orally shall notify the person's supervisor or other responsible officer of the person's employer of the violation and subsequently shall file with that supervisor or officer a written report that provides sufficient detail to identify and describe the violation. (4) The reporting requirements under division (A) of this section are not intended to infringe, and should not be interpreted as infringing on, the constitutional right against self-incrimination. (B) Except as otherwise provided in division (C) of this section, no employer shall take any disciplinary or retaliatory action against an*1* person for making any report authorized by division (A)(1) or (2) of this section, or as a result of the person's having made any inquiry or taken any other action to ensure the accuracy of any information reported under either such division. No employer shall take any disciplinary or retaliatory action against a person for making any report authorized by division (A)(3) of this section if the person made a reasonable and good faith effort to determine the accuracy of any information so reported, or as a result of the person's having made any inquiry or taken any other action to ensure the accuracy of any information reported under that division. For purposes of this division, disciplinary or retaliatory action by the employer includes, without limitation, doing any of the following: (1) Removing or suspending the person from employment; (2) Withholding from the person salary increases or employee benefits to which the person is otherwise entitled; (3) Transferring or reassigning the person; (4) Denying the person a promotion that otherwise would have been received;

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	(5) Reducing the person in pay or position. (C) A person shall make a reasonable and good faith effort to determine the accuracy of any information reported under division (A)(1) or (2) of this section. If the person who makes a report under either division fails to make such an effort, the person may be subject to disciplinary action by the person's employer, including suspension or removal, for reporting information without a reasonable basis to do so under division (A)(1) or (2) of this section. (D) If an employer takes any disciplinary or retaliatory action against an*1* person as a result of the person's having filed a report under division (A) of this section, the person may bring a civil action for appropriate injunctive relief or for the remedies set forth in division (E) of this section, or both, within one hundred eighty days after the date the disciplinary or retaliatory action was taken, in a court of common pleas in accordance with the Rules of Civil Procedure. A civil action under this division is not available to a person as a remedy for any disciplinary or retaliatory action taken by an appointing authority against the person as a result of the person's having filed a report under *division (A) of section 124.341 of the Revised Code*. (E) The court, in rendering a judgment for the person in an action brought pursuant to division (D) of this section, may order, as it determines appropriate, reinstatement of the person to the same position that the person held at the time of the disciplinary or retaliatory action and at the same site of employment or to a comparable position at that site, the payment of back wages, full reinstatement of fringe benefits and seniority rights, or any combination of these remedies. The court also may award the prevailing party all or a portion of the costs of litigation and, if the person who brought the action prevails in the action, may award the prevailing person reasonable attorney's fees, witness fees, and fees for experts who testify at trial, in an amount the court determines appropriate. If the court determines that an employer deliberately has violated division (B) of this section, the court, in making an award of back pay, may include interest at the rate specified in *section 1343.03 of the Revised Code*. (F) Any report filed with the inspector general under this section shall be filed as a complaint in accordance with *section 121.46 of the Revised Code*. (G) As used in this section: (1) "Contribution" has the same meaning as in *section 3517.01 of the Revised Code*. (2) "Improper solicitation for a contribution" means a solicitation for a contribution that satisfies all of the following: (a) The solicitation violates division *(B)*, *(C)*, or *(D) of section 3517.092 of the Revised Code*; (b) The solicitation is made in person by a public official or by an employee who has a supervisory role within the public office; (c) The public official or employee knowingly made the solicitation, and the solicitation violates division *(B)*, *(C)*, or *(D) of section 3517.092 of the Revised Code*; (d) The employee reporting the solicitation is an employee of the same public office as the public official or the employee with the supervisory role who is making the solicitation. (3) "Misappropriation of public money" means knowingly using public money or public property for an unauthorized, improper, or unlawful purpose to serve a private or personal benefit or interest. (4) "Misuse of public money" means knowingly using public money or public property in a manner not authorized by law. (5) "Public office" has the same meaning as in *section 117.01 of the Revised Code*.

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	(H) Nothing in this section shall be construed to limit the authority of an auditor to make inquiries or interview state or local government employees or officials or otherwise perform audit procedures related to fraud during the course of an audit or attestation engagement. **CREDIT(S)** (*2023 S 91, eff. 3-28-24; 2022 H 501, eff. 4-6-23; 2006 H 3, eff. 5-2-06; 2001 S 108, § 2.01, eff. 7-6-01; 2001 S 108, § 2.02, eff. 7-6-01; 1996 H 350, eff. 1-27-97* (***State ex rel. Ohio Academy of Trial Lawyers v. Sheward*** (**Ohio 1999**)); *1990 H 588, eff. 10-31-90; 1988 H 406*)
Pennsylvania 43 P.S. §§ 1421-1428 62 P.S. §§ 1407 – 1408 55 Pa. Code § 1101.75	**Criminal and Civil Penalties for False Claims and Statements** *Other Helpful Information About Medicaid Fraud & Reporting Fraud* *https://www.pa.gov/en/agencies/dhs/report-fraud/medicaid-fraud-abuse.html* *https://www.pccd.pa.gov/Funding/Pages/Reporting-Fraud,-Waste-and-Abuse.aspx* *https://www.pa.gov/en/agencies/dhs/departments-offices/oa-info/oa-bureau-program-integrity.html* **PA Medical Assistance Bulletin #99-07-13** • *State Bulletin/Notice* - MA Bulletin 99-07-13 - Updated Regarding False Claims Provisions of Deficit Reduction Act of 2005 - Employee Education About False Claims Recovery **PA ST 62 P.S. § 1407** **62 P.S. § 1407 - Provider prohibited acts, criminal penalties and civil remedies** ((a) It shall be unlawful for any person to: (1) Knowingly or intentionally present for allowance or payment any false or fraudulent claim or cost report for furnishing services or merchandise under medical assistance, or to knowingly present for allowance or payment any claim or cost report for medically unnecessary services or merchandise under medical assistance, or to knowingly submit false information, for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise under medical assistance, or to knowingly submit false information for the purpose of obtaining authorization for furnishing services or merchandise under medical assistance. (2) Solicit or receive or to offer or pay any remuneration, including any kickback, bribe or rebate, directly or indirectly, in cash or in kind from or to any person in connection with the furnishing of services or merchandise for which payment may be in whole or in part under the medical assistance program or in connection with referring an individual to a person for the furnishing or arranging for the furnishing of any services or merchandise for which payment may be made in whole or in part under the medical assistance program. (3) Submit a duplicate claim for services, supplies or equipment for which the provider has already received or claimed reimbursement from any source. (4) Submit a claim for services, supplies or equipment which were not rendered to a recipient. (5) Submit a claim for services, supplies or equipment which includes costs or charges not related to such services, supplies or equipment rendered to the recipient. (6) Submit a claim or refer a recipient to another provider by referral, order or prescription, for services, supplies or equipment which are not documented in the record in the prescribed manner and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient. (7) Submit a claim which misrepresents the description of services, supplies or equipment dispensed or provided; the dates of services; the identity of the recipient; the identity of the attending, prescribing or referring practitioner; or the identity of the actual provider. (8) Submit a claim for reimbursement for a service, charge or item at a fee or charge which is higher than the provider's usual and customary charge to the general public for the same service or item. (9) Submit a claim for a service or item which was not rendered by the provider. (10) Dispense, render or provide a service or item without a practitioner's written order and the consent of the recipient, except in emergency situations, or submit a claim for a service or item which was dispensed, or provided without the consent of the recipient, except in emergency situations. (11) Except in emergency situations, dispense, render or provide a service or item to a patient claiming to be a recipient without making a reasonable effort to ascertain by verification through a current medical assistance identification card, that the person or patient is, in fact, a recipient who is eligible on the date of service and without another available medical resource. (12) Enter into an agreement, combination or conspiracy to obtain or aid another to obtain reimbursement or payments for which there is not entitlement. (13) Make a false statement in the application for enrollment as a provider.

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	(14) Commit any of the prohibited acts described in section 1403(d)(1), (2), (4) and (5).1 (b)(1) A person who violates any provision of subsection (a), excepting subsection (a)(11), is guilty of a felony of the third degree for each such violation with a maximum penalty of fifteen thousand dollars ($15,000) and seven years imprisonment. A violation of subsection (a) shall be deemed to continue so long as the course of conduct or the defendant's complicity therein continues; the offense is committed when the course of conduct or complicity of the defendant therein is terminated in accordance with the provisions of *42 Pa.C.S. § 5552(d)* (relating to other offenses). Whenever any person has been previously convicted in any state or Federal court of conduct that would constitute a violation of subsection (a), a subsequent allegation, indictment or information under subsection (a) shall be classified as a felony of the second degree with a maximum penalty of twenty-five thousand dollars ($25,000) and ten years imprisonment. (2) In addition to the penalties provided under subsection (b), the trial court shall order any person convicted under subsection (a): (i) to repay the amount of the excess benefits or payments plus interest on that amount at the maximum legal rate from the date payment was made by the Commonwealth to the date repayment is made to the Commonwealth; (ii) to pay an amount not to exceed threefold the amount of excess benefits or payments. (3) Any person convicted under subsection (a) shall be ineligible to participate in the medical assistance program for a period of five years from the date of conviction. The department shall notify any provider so convicted that the provider agreement is terminated for five years, and the provider is entitled to a hearing on the sole issue of identity. If the conviction is set aside on appeal, the termination shall be lifted. (4) The Attorney General and the district attorneys of the several counties shall have concurrent authority to institute criminal proceedings under the provisions of this section. (5) As used in this section the following words and phrases shall have the following meanings: **"Conviction"** means a verdict of guilty, a guilty plea, or a plea of nolo contendere in the trial court. **"Medically unnecessary or inadequate services or merchandise"** means services or merchandise which are unnecessary or inadequate as determined by medical professionals engaged by the department who are competent in the same or similar field within the practice of medicine. (c)(1) If the department determines that a provider has committed any prohibited act or has failed to satisfy any requirement under section 1407(a),2 it shall have the authority to immediately terminate, upon notice to the provider, the provider agreement and to institute a civil suit against such provider in the court of common pleas for twice the amount of excess benefits or payments plus legal interest from the date the violation or violations occurred. The department shall have the authority to use statistical sampling methods to determine the appropriate amount of restitution due from the provider. (2) Providers who are terminated from participation in the medical assistance program for any reason shall be prohibited from owning, arranging for, rendering or ordering any service for medical assistance recipients during the period of termination. In addition, such provider may not receive, during the period of termination, reimbursement in the form of direct payments from the department or indirect payments of medical assistance funds in the form of salary, shared fees, contracts, kickbacks or rebates from or through any participating provider. (3) Notice of any action taken by the department against a provider pursuant to clauses (1) and (2) will be forwarded by the department to the Medicaid Fraud Control Unit of the Department of Justice and to the appropriate licensing board of the Department of State for appropriate action, if any. In addition, the department will forward to the Medicaid Fraud Control Unit of the Department of Justice and the appropriate Pennsylvania licensing board of the Department of State any cases of suspected provider fraud. **Credits** 1967, June 13, P.L. 31, No. 21, art. 14, § 1407, added 1980, July 10, P.L. 493, No. 105, § 3, effective in 60 days. **62 P.S. § 1408** **§ 1408. Other prohibited acts, criminal penalties and civil remedies** ***Currentness*** (a) It shall be unlawful for any person to: (1) knowingly or intentionally make or cause to be made a false statement or misrepresentation or to wilfully fail to disclose a material fact regarding eligibility, including, but not limited to, facts regarding income, resources or potential third-party liability, for either themselves or any other individual, either prior to or at the time of or subsequent to the application for any medical assistance benefits or payments; (2) having knowledge of the occurrence of any event affecting his initial or continued right to any such benefit or payment or the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceal or fail to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized; (3) having made application to receive any such benefit or payment for the use and benefit of himself or another and having received it, knowingly or intentionally converts such benefit or any part thereof to a use other than for the use and benefit of himself or such other person; or (4) knowingly or intentionally visit more than three practitioners or providers, who specialize in the same field, in the course of one month for the purpose of obtaining excessive services or benefits beyond what is reasonably needed (as determined by medical professionals engaged by the department) for the treatment of a diagnosed condition of the recipient. (5) borrow or use a medical assistance identification card for which he is not entitled or otherwise gain or attempt to gain medical services covered under the medical assistance program if he has not been determined eligible for the program.

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	(b)(1) Any person violating subsection (a)(1), (2) or (3) commits the grade of crime determined from the following schedule: Amount of Benefit — Degree of Crime $3,000 or more — Felony of the third degree $1,500 to $2,999 — Misdemeanor of the first degree $1,000 to $1,499 — Misdemeanor of the second degree $999 and under or an attempt to commit any act prohibited in subsection (a)(1), (2) or (3) — Misdemeanor of the third degree (1.1) Pursuant to *42 Pa.C.S. § 1515(a)(7)* (relating to jurisdiction and venue), jurisdiction over cases graded a misdemeanor of the third degree under this section shall be vested in district justices. (1.2) Any person committing a crime enumerated in subsection (a)(1), (2), (3), (4) or (5) shall be ordered to pay restitution of any medical assistance benefits or payments made on behalf of either themselves or another individual. A restitution order under this subsection may be paid in a lump sum or by monthly installments or according to such other schedule as is deemed just by the sentencing court. Notwithstanding the provisions of *18 Pa.C.S. § 1106(c)(2)* (relating to restitution for injuries to person or property) to the contrary, the period of time during which the offender is ordered to make restitution may exceed the maximum term of imprisonment to which the offender could have been sentenced for the crime of which he was convicted if the sentencing court determines such period to be reasonable and in the interest of justice. (1.3) There shall be a five-year statute of limitations on all crimes enumerated in subsection (a). (2) A person who commits a violation of subsection (a)(4) or (5) is guilty of a misdemeanor of the first degree for each violation thereof with a maximum penalty thereof of ten thousand dollars ($10,000) and five years imprisonment. (c)(1) Anyone who is convicted of a violation of subsection (a)(1), (2), (3), (4) or (5) shall, upon notification by the department, forfeit any and all rights to medical assistance benefits for any period of incarceration. (2) If the department determines that a recipient misuses or overutilizes medical assistance benefits, the department is authorized to restrict a recipient to a provider of his choice for each medical specialty or type of provider covered under the medical assistance program. (3) If the department determines that a general assistance eligible person who is also a medical assistance recipient has violated the provisions of subsection (a)(3), (4) or (5), the department shall have the authority to terminate such recipient's rights to any and all medical assistance benefits for a period up to one year. (4) If the department determines that a person has violated the provisions of subsection (a)(1), (3), (4) or (5), the department shall have the authority to institute a civil suit against such person for the amount of the benefits obtained by the person in violation of subsection (a)(1), (3), (4) or (5), plus legal interest from the date the violation or violations occurred. (5) The department shall also have the authority to administratively impose a one thousand dollar ($1,000) penalty against a person for each violation of subsection (a). (6)(i) If it is found that a recipient or a member of his family or household, who would have been ineligible for medical assistance, possessed unreported real or personal property in excess of the amount permitted by law, the amount collectible shall be limited to an amount equal to the market value of such unreported property or the amount of medical assistance granted during the period it was held up to the date the unreported excess real or personal property is identified, whichever is less. Repayment of the overpayment shall be sought from the recipient, the person receiving or holding such property, the recipient's estate and/or survivors benefiting from receiving such property. Proof of date of acquisition of such property must be provided by the recipient or person acting on his behalf. (ii) Where a person receiving medical assistance for which he would have been ineligible due to possession of such unreported property and proof of date of acquisition of such property is not provided, it shall be deemed that such real or personal property was held by the recipient the entire time he was on medical assistance and repayment shall be for all medical assistance paid for the recipient or the value of such excess property, whichever is less. Repayment shall be sought from the recipient, the person acting on the recipient's behalf, the person receiving or holding such property, the recipient's estate and/or survivors benefiting from receiving such property. (d) The department is authorized to institute a civil suit to enforce any of the rights established by this section. **Credits** 1967, June 13, P.L. 31, No. 21, art. 14, § 1408, added 1980, July 10, P.L. 493, No. 105, § 3, effective in 60 days. Affected 1982, Dec. 20, P.L. 1409, No. 326, art. III, § 312, effective in 60 days. Amended *1994, June 16, P.L. 319, No. 49, § 13*, effective in 60 days. **55 Pa. Code § 1101.75 -. Provider prohibited acts** (a) An enrolled provider may not, either directly or indirectly, do any of the following acts: (1) Knowingly or intentionally present for allowance or payment a false or fraudulent claim or cost report for furnishing services or merchandise under MA, knowingly present for allowance or payment a claim or cost report for medically unnecessary services or merchandise under MA, or knowingly submit false information, for the purpose of obtaining greater compensation than that to which the provider is legally entitled for furnishing services or merchandise under MA. (2) Knowingly submit false information to obtain authorization to furnish services or items under MA.

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	(3) Solicit, receive, offer or pay a remuneration, including a kickback, bribe or rebate, directly or indirectly, in cash or in kind, from or to a person in connection with furnishing of services or items or referral of a recipient for services and items. (4) Submit a duplicate claim for services or items for which the provider has already received or claimed reimbursement from a source. (5) Submit a claim for services or items which were not rendered by the provider or were not rendered to a recipient. (6) Submit a claim for services or items which includes costs or charges which are not related to the cost of the services or items. (7) Submit a claim or refer a recipient to another provider by referral, order or prescription, for services, supplies or equipment which are not documented in the record in the prescribed manner and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are not medically necessary. (8) Submit a claim which misrepresents the description of the services, supplies or equipment dispensed or provided, the date of service, the identity of the recipient or of the attending, prescribing, referring or actual provider. (9) Submit a claim for a service or item at a fee that is greater than the provider's charge to the general public. (10) Except in emergency situations, dispense, render or provide a service or item without a practitioner's written order and the consent of the recipient or submit a claim for a service or item which was dispensed or provided without the consent of the recipient. (11) Except in emergency situations, dispense, render or provide a service or item to a patient claiming to be a recipient without first making a reasonable effort to verify by a current Medical Services Eligibility card that the patient is an eligible recipient with no other medical resources. (12) Enter into an agreement, combination or conspiracy to obtain or aid another in obtaining payment from the Department for which the provider or other person is not entitled, that is, eligible. (13) Make a false statement in the application for enrollment or reenrollment in the program. (14) Commit a prohibited act specified in § 1102.81(a) (relating to prohibited acts of a shared health facility and providers practicing in the shared health facility). (b) A provider or person who commits a prohibited act specified in subsection (a), except paragraph (11), is subject to the penalties specified in §§ 1101.76, 1101.77 and 1101.83 (relating to criminal penalties; enforcement actions by the Department; and restitution and repayment). **AUTHORITY**: The provisions of this § 1101.75 issued under sections 403(a) and (b), 441.1 and 1410 of the Public Welfare Code (*62 P. S. §§ 403(a)* and (b), 441.1 and 1410). **SOURCE**: The provisions of this § 1101.75 adopted November 18, 1983, effective November 19, 1983, 13 Pa.B. 3653. NOTES: Cross References - This section cited in *55 Pa. Code § 41.153* (relating to burden of proof and production); *55 Pa. Code § 51.27* (relating to misuse and abuse of funds and damage of participants property); *55 Pa. Code § 51.152* (relating to termination of provider agreement); *55 Pa. Code § 1101.76* (relating to criminal penalties); *55 Pa. Code § 1101.83* (relating to restitution and repayment); *55 Pa. Code § 1101.84* (relating to provider right of appeal); and *55 Pa. Code § 5221.43* (relating to quality assurance and utilization review).
	Qui Tam Actions & Remedies
	None
	Whistle-blower Protections
	43 P.S. § 1421 This act shall be known and may be cited as the Whistleblower Law.

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	43 P.S. § 1422 - Definitions The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise: "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT, REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE OFFICE OF INSPECTOR GENERAL, THE OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE AUDITOR GENERAL, THE TREASURY DEPARTMENT, THE GENERAL ASSEMBLY AND COMMITTEES OF THE GENERAL ASSEMBLY HAVING THE POWER AND DUTY TO INVESTIGATE CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL CONDUCT OR ETHICS, OR WASTE. "EMPLOYEE." A PERSON WHO PERFORMS A SERVICE FOR WAGES OR OTHER REMUNERATION UNDER A CONTRACT OF HIRE, WRITTEN OR ORAL, EXPRESS OR IMPLIED, FOR AN EMPLOYER. "EMPLOYER." A public body or any of the following which receives money from a public body to perform work or provide services relative to the performance of work for or the provision of services to a public body: (1) An individual. (2) A partnership. (3) An association. (4) A corporation for profit. (5) A corporation not for profit. "GOOD FAITH REPORT." A REPORT OF CONDUCT DEFINED IN THIS ACT AS WRONGDOING OR WASTE WHICH IS MADE WITHOUT MALICE OR CONSIDERATION OF PERSONAL BENEFIT AND WHICH THE PERSON MAKING THE REPORT HAS REASONABLE CAUSE TO BELIEVE IS TRUE. AN EMPLOYER IS NOT BARRED FROM TAKING DISCIPLINARY ACTION AGAINST THE EMPLOYEE WHO COMPLETED THE REPORT IF THE EMPLOYEE'S REPORT WAS SUBMITTED IN BAD FAITH. "PUBLIC BODY." All of the following: (1) A State officer, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State government. (1.1) The General Assembly and its agencies. (2) A county, city, township, regional governing body, council, school district, special district or municipal corporation, or a board, department, commission, council or agency. (3) Any other body which is created by Commonwealth or political subdivision authority or which is funded in any amount by or through Commonwealth or political subdivision authority or a member or employee of that body.

State /Citation	False Claims Laws
	"WASTE." An employer's conduct or omissions which result in substantial abuse, misuse, destruction or loss of funds or resources belonging to or derived from Commonwealth or political subdivision sources. "WHISTLEBLOWER." A person who witnesses or has evidence of wrongdoing or waste while employed and who makes a good faith report of the wrongdoing or waste, verbally or in writing, to one of the person's superiors, to an agent of the employer or to an appropriate authority. "WRONGDOING." A violation which is not of a merely technical or minimal nature of a Federal or State statute or regulation, of a political subdivision ordinance or regulation or of a code of conduct or ethics designed to protect the interest of the public or the employer. **History:** Act 1986-169 (H.B. 284), P.L. 1559, § 2, approved Dec. 12, 1986, eff. in 60 days; *Act 2014-87* (H.B. 118), P.L. 824, § 1, approved July 2, 2014, eff. in 60 days; *Act 2014-88* (H.B. 185), P.L. 826, § 1, approved July 2, 2014, eff. in 60 days. **43 P.S. § 1423 -Protection of employees** (a) PERSONS NOT TO BE DISCHARGED.-- No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee or a person acting on behalf of the employee makes a good faith report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of wrongdoing or waste by a public body or an instance of waste by any other employer as defined in this act. (b) DISCRIMINATION PROHIBITED.-- No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee is requested by an appropriate authority to participate in an investigation, hearing or inquiry held by an appropriate authority or in a court action. (c) DISCLOSURE PROHIBITION.-- An appropriate authority to which a violation of this act was reported may not disclose the identity of a whistleblower without the whistleblower's consent unless disclosure is unavoidable in the investigation of the alleged violation. **History:** Act 1986-169 (H.B. 284), P.L. 1559, § 3, approved Dec. 12, 1986, eff. in 60 days; *Act 2014-87* (H.B. 118), P.L. 824, § 2, approved July 2, 2014, eff. in 60 days; *Act 2014-88* (H.B. 185), P.L. 826, § 2, approved July 2, 2014, eff. in 60 days. **43 P.S. § 1424 Remedies** (a) CIVIL ACTION.-- A person who alleges a violation of this act may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief or damages, or both, within 180 days after the occurrence of the alleged violation. (b) NECESSARY SHOWING OF EVIDENCE.-- An employee alleging a violation of this act must show by a preponderance of the evidence that, prior to the alleged reprisal, the employee or a person acting on behalf of the employee had reported or was about to report in good faith, verbally or in writing, an instance of wrongdoing or waste to the employer or an appropriate authority. (c) DEFENSE.-- It shall be a defense to an action under this section if the defendant proves by a preponderance of the evidence that the action by the employer occurred for separate and legitimate reasons, which are not merely pretextual. (d) CIVIL SERVICE EMPLOYEES.-- An employee covered by civil service who contests a civil service action, believing it to be motivated by his having made a good faith report, verbally or in writing, of an instance of wrongdoing or waste, may submit as admissible evidence any or all material relating to the action as whistleblower and to the resulting alleged reprisal. **History:** Act 1986-169 (H.B. 284), P.L. 1559, § 4, approved Dec. 12, 1986, eff. in 60 days. **43 P.S. § 1425 - Enforcement** A court, in rendering a judgment in an action brought under this act, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages or any combination of these remedies. A court shall also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the complainant prevails in the civil action. **History:** Act 1986-169 (H.B. 284), P.L. 1559, § 5, approved Dec. 12, 1986, eff. in 60 days; *Act 2014-87* (H.B. 118), P.L. 824, § 3, approved July 2, 2014, eff. in 60 days. **43 P.S. § 1426 - Penalties** A person who, under color of an employer's authority, violates this act shall be liable for a civil fine of not more than $ 10,000. Additionally, except where the person holds an elected public office, if the court specifically finds that the person, while in the employment of the Commonwealth or a political subdivision, committed a violation of this act with the intent to discourage the disclosure of criminal activity, the court may order the person's suspension from public service for not more than seven years. A civil fine which is ordered under this section shall be paid to the State Treasurer for deposit into the General Fund.

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	History: Act 1986-169 (H.B. 284), P.L. 1559, § 6, approved Dec. 12, 1986, eff. in 60 days; *Act 2014-87* (H.B. 118), P.L. 824, § 3, approved July 2, 2014, eff. in 60 days; *Act 2014-88* (H.B. 185), P.L. 826, § 3, approved July 2, 2014, eff. in 60 days. **43 P.S. § 1427 – Construction** This act shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by an appropriate authority, or impair the rights of any person under a collective bargaining agreement. **History:** Act 1986-169 (H.B. 284), P.L. 1559, § 7, approved Dec. 12, 1986, eff. in 60 days. **43 P.S. § 1428 - Notice** An employer shall post notices and use other appropriate means to notify employees and keep them informed of protections and obligations under this act. **History:** Act 1986-169 (H.B. 284), P.L. 1559, § 8, approved Dec. 12, 1986, eff. in 60 days.
Texas/ Tex. Hum. Res. Code § 32.039 1 TAC § 371.1617 *et seq*	**Criminal and Civil Penalties for False Claims and Statements** Other Helpful Information About Medicaid Fraud & Reporting Fraud *https://www.texasattorneygeneral.gov/divisions/law-enforcement/medicaid-fraud-control-unit* https://oig.hhs.texas.gov/report-fraud-waste-or-abuse Human Resources Code Title 2 Human Services and Protective Services in General Subtitle A General Provisions Chapter 11 General Provisions Tex. Hum. Res. Code § **11.001. Definitions.** In this title: **(1)** "Assistance" means all forms of assistance and services for needy persons authorized by Subtitle C. **(2)** "Commission" means the Health and Human Services Commission. **(3)** "Executive commissioner" means the executive commissioner of the Health and Human Services Commission. **(4)** "Financial assistance" means money payments for needy persons authorized by Chapter 31. **(5)** "Medical assistance" means assistance for needy persons authorized by Chapter 32. **History:** Enacted by Acts 1979, 66th Leg., ch. 842 (H.B. 1834), art. 1, § 1, effective September 1, 1979; am. Acts 1985, 69th Leg., ch. 264 (S.B. 351), § 5, effective August 26, 1985; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 8.012, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 920 (H.B. 1662), § 6, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 980 (H.B. 2577), § 50, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1505 (S.B. 374), § 2.01, effective September 1, 2003; am. Acts 2001, 77th Leg., ch. 592 (S.B. 535), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 198, § 1.28(3); effective September 1, 2003; am. Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.002, effective April 2, 2015. Human Resources Code Title 2 Human Services and Protective Services in General Subtitle C Assistance Programs Chapter 32 Medical Assistance Program Subchapter B Administrative Provisions

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	Tex. Hum. Res. Code § 32.039 - **Damages and Penalties.** **(a)** In this section: **(1)** "Claim" means an application for payment of health care services under Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 et seq.) that is submitted by a person who is under a contract or provider agreement with the commission. **(1-a)** "Inducement" includes a service, cash in any amount, entertainment, or any item of value. **(2)** "Managed care organization" means any entity or person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan. **(3)** "Managed care plan" means a plan under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care service. A part of the plan must consist of arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term does not include a plan that indemnifies a person for the cost of health care services through insurance. **(4)** A person "should know" or "should have known" information to be false if the person acts in deliberate ignorance of the truth or falsity of the information or in reckless disregard of the truth or falsity of the information, and proof of the person's specific intent to defraud is not required. **(b)** A person commits a violation if the person: **(1)** presents or causes to be presented to the commission a claim that contains a statement or representation the person knows or should know to be false; **(1-a)** engages in conduct that violates Section 102.001, Occupations Code; **(1-b)** solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for referring an individual to a person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services; **(1-c)** solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for purchasing, leasing, or ordering, or arranging for or recommending the purchasing, leasing, or ordering of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program; **(1-d)** offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to refer an individual to another person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services; **(1-e)** offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to purchase, lease, or order, or arrange for or recommend the purchase, lease, or order of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program; **(1-f)** provides, offers, or receives an inducement in a manner or for a purpose not otherwise prohibited by this section or Section 102.001, Occupations Code, to or from a person, including a recipient, provider, employee or agent of a provider, third-party vendor, or public servant, for the purpose of influencing or being influenced in a decision regarding: **(A)** selection of a provider or receipt of a good or service under the medical assistance program; **(B)** the use of goods or services provided under the medical assistance program; or

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	(C) the inclusion or exclusion of goods or services available under the medical assistance program; **(2)** is a managed care organization that contracts with the commission to provide or arrange to provide health care benefits or services to individuals eligible for medical assistance and: **(A)** fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract with the commission ; **(B)** fails to provide to the commission information required to be provided by law, commission rule, or contractual provision; **(C)** engages in a fraudulent activity in connection with the enrollment in the organization's managed care plan of an individual eligible for medical assistance or in connection with marketing the organization's services to an individual eligible for medical assistance; or **(D)** engages in actions that indicate a pattern of: **(i)** wrongful denial of payment for a health care benefit or service that the organization is required to provide under the contract with the commission ; or **(ii)** wrongful delay of at least 45 days or a longer period specified in the contract with the commission , not to exceed 60 days, in making payment for a health care benefit or service that the organization is required to provide under the contract with the commission ; or **(3)** fails to maintain documentation to support a claim for payment in accordance with the requirements specified by commission rule or medical assistance program policy or engages in any other conduct that a commission rule has defined as a violation of the medical assistance program. **(b-1)** A person who commits a violation described by Subsection (b)(3) is liable to the department for either the amount paid in response to the claim for payment or the payment of an administrative penalty in an amount not to exceed $ 500 for each violation, as determined by the commission. **(c)** A person who commits a violation under Subsection (b) is liable to the commission for: **(1)** the amount paid, if any, as a result of the violation and interest on that amount determined at the rate provided by law for legal judgments and accruing from the date on which the payment was made; and **(2)** payment of an administrative penalty of an amount not to exceed twice the amount paid, if any, as a result of the violation, plus an amount: **(A)** not less than $ 5,000 or more than $ 15,000 for each violation that results in injury to an elderly person, as defined by Section 48.002(a)(1) , a person with a disability, as defined by Section 48.002(a)(8)(A) , or a person younger than 18 years of age; or **(B)** not more than $ 10,000 for each violation that does not result in injury to a person described by Paragraph (A). **(d)** Unless the provider submitted information to the commission for use in preparing a voucher that the provider knew or should have known was false or failed to correct information that the provider knew or should have known was false when provided an opportunity to do so, this section does not apply to a claim based on the voucher if the commission calculated and printed the amount of the claim on the voucher and then submitted the voucher to the provider for the provider's signature. In addition, the provider's signature on the voucher does not constitute fraud. The executive commissioner shall adopt rules that establish a grace period during which errors contained in a voucher prepared by the commission may be corrected without penalty to the provider. **(e)** In determining the amount of the penalty to be assessed under Subsection (c)(2), the commission shall consider: **(1)** the seriousness of the violation; **(2)** whether the person had previously committed a violation; and

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	(3) the amount necessary to deter the person from committing future violations. **(f)** If after an examination of the facts the commission concludes that the person committed a violation, the commission may issue a preliminary report stating the facts on which it based its conclusion, recommending that an administrative penalty under this section be imposed and recommending the amount of the proposed penalty. **(g)** The commission shall give written notice of the report to the person charged with committing the violation. The notice must include a brief summary of the facts, a statement of the amount of the recommended penalty, and a statement of the person's right to an informal review of the alleged violation, the amount of the penalty, or both the alleged violation and the amount of the penalty. **(h)** Not later than the 10th day after the date on which the person charged with committing the violation receives the notice, the person may either give the commission written consent to the report, including the recommended penalty, or make a written request for an informal review by the commission. **(i)** If the person charged with committing the violation consents to the penalty recommended by the commission or fails to timely request an informal review, the commission shall assess the penalty. The commission shall give the person written notice of its action. The person shall pay the penalty not later than the 30th day after the date on which the person receives the notice. **(j)** If the person charged with committing the violation requests an informal review as provided by Subsection (h), the commission shall conduct the review. The commission shall give the person written notice of the results of the review. **(k)** Not later than the 10th day after the date on which the person charged with committing the violation receives the notice prescribed by Subsection (j), the person may make to the commission a written request for a hearing. The hearing must be conducted in accordance with Chapter 2001, Government Code. **(*l*)** If, after informal review, a person who has been ordered to pay a penalty fails to request a formal hearing in a timely manner, the commission shall assess the penalty. The commission shall give the person written notice of its action. The person shall pay the penalty not later than the 30th day after the date on which the person receives the notice. **(m)** Within 30 days after the date on which the commission's order issued after a hearing under Subsection (k) becomes final as provided by Section 2001.144, Government Code, the person shall: **(1)** pay the amount of the penalty; **(2)** pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or **(3)** without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty. **(n)** A person who acts under Subsection (m)(3) within the 30-day period may: **(1)** stay enforcement of the penalty by: **(A)** paying the amount of the penalty to the court for placement in an escrow account; or **(B)** giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the commission's order is final; or **(2)** request the court to stay enforcement of the penalty by: **(A)** filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

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	(B) giving a copy of the affidavit to the executive commissioner by certified mail. **(o)** If the executive commissioner receives a copy of an affidavit under Subsection (n)(2), the executive commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond. **(p)** If the person charged does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commission may forward the matter to the attorney general for enforcement of the penalty and interest as provided by law for legal judgments. An action to enforce a penalty order under this section must be initiated in a court of competent jurisdiction in Travis County or in the county in which the violation was committed. **(q)** Judicial review of a commission order or review under this section assessing a penalty is under the substantial evidence rule. A suit may be initiated by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001, Government Code. **(r)** If a penalty is reduced or not assessed, the commission shall remit to the person the appropriate amount plus accrued interest if the penalty has been paid or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the commission under this subsection shall be paid at a rate equal to the rate provided by law for legal judgments and shall be paid for the period beginning on the date the penalty is paid to the commission under this section and ending on the date the penalty is remitted. **(s)** A damage, cost, or penalty collected under this section is not an allowable expense in a claim or cost report that is or could be used to determine a rate or payment under the medical assistance program. **(t)** All funds collected under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund. **(u)** Except as provided by Subsection (w), a person found liable for a violation under Subsection (c) that resulted in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age may not provide or arrange to provide health care services under the medical assistance program for a period of 10 years. The executive commissioner by rule may provide for a period of ineligibility longer than 10 years. The period of ineligibility begins on the date on which the determination that the person is liable becomes final. **(v)** Except as provided by Subsection (w), a person found liable for a violation under Subsection (c) that did not result in injury to an elderly person, as defined by Section 48.002(a)(1), a person with a disability, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age may not provide or arrange to provide health care services under the medical assistance program for a period of three years. The executive commissioner by rule may provide for a period of ineligibility longer than three years. The period of ineligibility begins on the date on which the determination that the person is liable becomes final. **(w)** The executive commissioner by rule may prescribe criteria under which a person described by Subsection (u) or (v) is not prohibited from providing or arranging to provide health care services under the medical assistance program. The criteria may include consideration of: **(1)** the person's knowledge of the violation; **(2)** the likelihood that education provided to the person would be sufficient to prevent future violations; **(3)** the potential impact on availability of services in the community served by the person; and **(4)** any other reasonable factor identified by the executive commissioner. **(x)** Subsections (b)(1-b) through (1-f) do not prohibit a person from engaging in: **(1)** generally accepted business practices, as determined by commission rule, including: **(A)** conducting a marketing campaign;

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	(B) providing token items of minimal value that advertise the person's trade name; and **(C)** providing complimentary refreshments at an informational meeting promoting the person's goods or services; **(2)** the provision of a value-added service if the person is a managed care organization; or **(3)** other conduct specifically authorized by law, including conduct authorized by federal safe harbor regulations (42 C.F.R. Section 1001.952). **History:** Enacted by Acts 1987, 70th Leg., ch. 1052 (S.B. 298), § 2.04, effective September 1, 1987; am. Acts 1995, 75th Leg., ch. 76 (S.B. 959), § 5.95(49), (53), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 959 (H.B. 1637), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 3.01(a), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 12 (S.B. 11), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 12 (S.B. 11), § 2, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 257 (H.B. 1743), §§ 4, 5, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 127 (S.B. 1694), § 2, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 879 (S.B. 223), § 3.16, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 980 (H.B. 1720), § 29, effective September 1, 2011; am. Acts 2015, 84th Leg., ch. 1 (S.B. 219), §§ 4.113, 4.114, effective April 2, 2015. TITLE 1. ADMINISTRATION PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS DIVISION 2. GROUNDS FOR ENFORCEMENT 1 TAC § 371.1601 - 1 TAC § 371.1669 http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=1&pt=15&ch=371&sch=G TITLE 1. ADMINISTRATION PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS 1 TAC § 371.1701 - 1 TAC § 371.1719 TITLE 1. ADMINISTRATION PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=1&pt=15&ch=371&sch=G&div=3&rl=Y
	Qui Tam Actions & Remedies

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	V.T.C.A., Government Code § 531.101 **§ 531.101. Award for Reporting Medicaid Fraud, Abuse, or Overcharges** *Currentness* (a) The commission may grant an award to an individual who reports activity that constitutes fraud or abuse of funds in Medicaid or reports overcharges in Medicaid if the commission determines that the disclosure results in the recovery of an administrative penalty imposed under *Section 32.039, Human Resources Code*. The commission may not grant an award to an individual in connection with a report if the commission or attorney general had independent knowledge of the activity reported by the individual. (b) The commission shall determine the amount of an award. The award may not exceed five percent of the amount of the administrative penalty imposed under *Section 32.039, Human Resources Code*, that resulted from the individual's disclosure. In determining the amount of the award, the commission shall consider how important the disclosure is in ensuring the fiscal integrity of Medicaid. The commission may also consider whether the individual participated in the fraud, abuse, or overcharge. (c) A person who brings an action under Subchapter C, Chapter 36, Human Resources Code,*1* is not eligible for an award under this section. **Credits** Added by *Acts 1997, 75th Leg., ch. 165, § 14.16, eff. Sept. 1, 1997*; *Acts 1997, 75th Leg., ch. 1153, § 1.06(a), eff. Sept. 1, 1997*. Amended by *Acts 2003, 78th Leg., ch. 198, § 2.18(a), eff. Sept. 1, 2003*; *Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 2.129, eff. April 2, 2015*. .
	Whistle-blower Protections 25 TAC § 133.43 **Discrimination or Retaliation Standards** (a) Posting requirements for reporting a violation of law. In accordance with Health and Safety Code (HSC), § 161.134(j) and § 161.135(h), each hospital shall prominently and conspicuously post for display in a public area of the hospital that is readily visible to patients, residents, employees, and visitors a statement that nonemployees, employees and staff are protected from discrimination or retaliation for reporting a violation of law. The statement shall be in English and in a second language appropriate to the demographic makeup of the community served. (b) Discrimination relating to employee reporting a violation of law. In accordance with *HSC, § 161.134(a)*, and § 133.41(o)(2)(I)(i)(III) of this title (relating to Hospital Functions and Services), a hospital may not suspend or terminate the employment of, discipline, or otherwise discriminate against an employee for reporting in good faith to the employee's supervisor, an administrator of the hospital, a state or federal regulatory agency, a national accrediting organization or a law enforcement agency a violation of law, including a violation of the Act or this chapter. For purposes of this subsection, a report is not made in good faith if there is not a reasonable factual or legal basis for making the report. (c) Retaliation relating to nonemployee reporting a violation of law. In accordance with *HSC, § 161.135(a)*, a hospital may not retaliate against a person who is not an employee for reporting a violation of law, including a violation of the Act or this chapter. SOURCE: The provisions of this § 133.43 adopted to be effective June 21, 2007, *32 TexReg 3587*
Texas/Medicaid Fraud Prevention Tex. Hum. Res. Code § 36.001-132	**Criminal and Civil Penalties for False Claims and Statements** Report Fraud @ *https://www.hhs.texas.gov/about/your-rights/complaint-incident-intake/how-do-i-report-suspected-fraud-or-misuse-state-resources* Subchapter C Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges [Expires September 1, 2027] *http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm*

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Tex. Gov't Code § 531.101-106 Tex. Penal Code § 35A.02	CHAPTER 36. MEDICAID FRAUD PREVENTION http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.36.htm SUBCHAPTER A. GENERAL PROVISIONS http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.36.htm#36.001 *V.T.C.A., Human Resources Code § 36.001* ***§ 36.001. Definitions*** Currentness *In this chapter:* *(1) "Child health plan program" means the child health plan program established under Chapters 62 and 63, Health and Safety Code.* *(1-a) "Claim" means a written or electronically submitted request or demand that:* *(A) is signed by a provider or a fiscal agent and that identifies a product or service provided or purported to have been provided to a health care recipient as reimbursable under a health care program, without regard to whether the money that is requested or demanded is paid; or* *(B) states the income earned or expense incurred by a provider in providing a product or a service and that is used to determine a rate of payment under a health care program.* *(2) "Documentary material" means a record, document, or other tangible item of any form, including:* *(A) a medical document or X ray prepared by a person in relation to the provision or purported provision of a product or service to a health care recipient;* *(B) a medical, professional, or business record relating to:* *(i) the provision of a product or service to a health care recipient; or* *(ii) a rate or amount paid or claimed for a product or service, including a record relating to a product or service provided to a person other than a health care recipient as needed to verify the rate or amount;* *(C) a record required to be kept by an agency that regulates health care providers; or* *(D) a record necessary to disclose the extent of services a provider furnishes to health care recipients.* *(3) "Fiscal agent" means:* *(A) a person who, through a contractual relationship with a state agency, receives, processes, and pays a claim under a health care program; or* *(B) the designated agent of a person described by Paragraph (A).* *(4) "Health care practitioner" means a dentist, podiatrist, psychologist, physical therapist, chiropractor, registered nurse, or other provider licensed to provide health care services in this state.* *(4-a) "Health care program" means:* *(A) the Medicaid program;* *(B) the child health plan program; and* *(C) the Healthy Texas Women program.* *(4-b) "Health care recipient" means an individual on whose behalf a person claims or receives a payment from a health care program or a fiscal agent, without regard to whether the individual was eligible for benefits under the health care program.* *(4-c) "Healthy Texas Women program" means a program operated by the commission that is substantially similar to the demonstration project operated under former Section 32.0248 and that is intended to expand access to preventive health and family planning services for women in this state.* *(5) "Managed care organization" means a person who is authorized or otherwise permitted by law to arrange for or provide a managed care plan .* *(5-a) "Material" means having a natural tendency to influence or to be capable of influencing.* *(6) Repealed by Acts 2023, 88th Leg., ch. 273 (S.B. 745), § 12.* *(7) Repealed by Acts 2023, 88th Leg., ch. 273 (S.B. 745), § 12.* *(7-a) "Obligation" means a duty, whether or not fixed, that arises from:* *(A) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;* *(B) a fee-based or similar relationship;* *(C) a statute or regulation; or* *(D) the retention of any overpayment.* *(8) "Physician" means a physician licensed to practice medicine in this state.* *(9) "Provider" means a person who participates in or who has applied to participate in a health care program as a supplier of a product or service and includes:*

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	(A) a management company that manages, operates, or controls another provider; *(B) a person, including a medical vendor, that provides a product or service to a provider or to a fiscal agent;* *(C) an employee of a provider;* *(D) a managed care organization; and* *(E) a manufacturer or distributor of a product for which a health care program provides reimbursement.* *(10) "Service" includes care or treatment of a health care recipient.* *(11) "Signed" means to have affixed a signature directly or indirectly by means of handwriting, typewriting, signature stamp, computer impulse, or other means recognized by law.* *(12) "Unlawful act" means an act declared to be unlawful under Section 36.002.* ***Credits*** *Added by Acts 1995, 74th Leg., ch. 824, § 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1153, § 4.02, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 806, § 1, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 1, eff. Sept. 1, 2011; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.179, eff. April 2, 2015; Acts 2023, 88th Leg., ch. 273 (S.B. 745), §§ 3, 12, eff. Sept. 1, 2023.* **Tex. Hum. Res. Code § 36.002 - Unlawful Acts** V.T.C.A., Human Resources Code § 36.002 **§ 36.002. Unlawful Acts** *Currentness* A person commits an unlawful act if the person: (1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under a health care program that is not authorized or that is greater than the benefit or payment that is authorized; (2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under a health care program that is not authorized or that is greater than the benefit or payment that is authorized; (3) knowingly applies for and receives a benefit or payment on behalf of another person under a health care program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received; (4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning: (A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by a health care program, including certification or recertification as: (i) a hospital; (ii) a nursing facility or skilled nursing facility; (iii) a hospice; (iv) an ICF-IID; (v) an assisted living facility; or (vi) a home health agency; or (B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to a health care program; (5) except as authorized under a health care program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the program; (6) knowingly presents or causes to be presented a claim for payment under a health care program for a product provided or a service rendered by a person who: (A) is not licensed to provide the product or render the service, if a license is required; or (B) is not licensed in the manner claimed; (7) knowingly makes or causes to be made a claim under a health care program for: (A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner; (B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or (C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate; (8) makes a claim under a health care program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service; (9) conspires to commit a violation of Subdivision (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), or (13);

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	(10) is a managed care organization that contracts with the commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under a health care program and knowingly: (A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract; (B) fails to provide to the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or (C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the program; (11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section; (12) knowingly makes, uses, or causes the making or use of a false record or statement material to an obligation to pay or transmit money or property to this state under a health care program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to this state under a health care program; or (13) knowingly engages in conduct that constitutes a violation under *Section 32.039(b)*. **Credits** Added by *Acts 1995, 74th Leg., ch. 824, § 1, eff. Sept. 1, 1995*. Amended by *Acts 1997, 75th Leg., ch. 1153, § 4.03, eff. Sept. 1, 1997*; *Acts 1999, 76th Leg., ch. 233, § 4, eff. Sept. 1, 1999*; *Acts 2005, 79th Leg., ch. 806, § 3, eff. Sept. 1, 2005*; *Acts 2007, 80th Leg., ch. 78, § 1, eff. Sept. 1, 2007*; *Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 2, eff. Sept. 1, 2011*; *Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 1, eff. Sept. 1, 2013*; *Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.180, eff. April 2, 2015*; *Acts 2023, 88th Leg., ch. 273 (S.B. 745), § 4, eff. Sept. 1, 2023*. PENAL CODE TITLE 7. OFFENSES AGAINST PROPERTY CHAPTER 35A. MEDICAID FRAUD **Tex. Penal Code § 35A.02** § 35A.02. **Medicaid Fraud** (a) A person commits an offense if the person: (1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under a health care program that is not authorized or that is greater than the benefit or payment that is authorized; (2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under a health care program that is not authorized or that is greater than the benefit or payment that is authorized; (3) knowingly applies for and receives a benefit or payment on behalf of another person under a health care program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received; (4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning: (A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification under a health care program ; or (B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to a health care program; (5) except as authorized under a health care program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the health care program, a gift, money, donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under a health care program; (6) knowingly presents or causes to be presented a claim for payment under a health care program for a product provided or a service rendered by a person who: (A) is not licensed to provide the product or render the service, if a license is required; or (B) is not licensed in the manner claimed; (7) knowingly makes or causes to be made a claim under a health care program for: (A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner; (B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or (C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate; (8) makes a claim under a health care program and knowingly fails to indicate the type of license and the identification number of the licensed health care practitioner who actually provided the service; (9) knowingly enters into an agreement, combination, or conspiracy to defraud the state or federal government by obtaining or aiding another person in obtaining an unauthorized payment or benefit from a health care program or fiscal agent;

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	(10) is a managed care organization that contracts with the Health and Human Services Commission, another state agency, or the federal government to provide or arrange to provide health care benefits or services to individuals eligible under a health care program and knowingly: (A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract; (B) fails to provide or falsifies information required to be provided by law, rule, or contractual provision; or (C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under a health care program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under a health care program; (11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section or under *Section 32.039*, *32.0391*, or *36.002, Human Resources Code*; or (12) knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to this state or the federal government under a health care program. (b) An offense under this section is: (1) a Class C misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is less than $100; (2) a Class B misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is $100 or more but less than $750; (3) a Class A misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is $750 or more but less than $2,500; (4) a state jail felony if: (A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is $2,500 or more but less than $30,000; (B) the offense is committed under Subsection (a)(11); or (C) it is shown on the trial of the offense that the amount of the payment or value of the benefit described by this subsection cannot be reasonably ascertained; (5) a felony of the third degree if: (A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is $30,000 or more but less than $150,000; or (B) it is shown on the trial of the offense that the defendant submitted more than 25 but fewer than 50 fraudulent claims under a health care program and the submission of each claim constitutes conduct prohibited by Subsection (a); (6) a felony of the second degree if: (A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is $150,000 or more but less than $300,000; or (B) it is shown on the trial of the offense that the defendant submitted 50 or more fraudulent claims under a health care program and the submission of each claim constitutes conduct prohibited by Subsection (a); or (7) a felony of the first degree if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under a health care program, directly or indirectly, as a result of the conduct is $300,000 or more. (c) If conduct constituting an offense under this section also constitutes an offense under another section of this code or another provision of law, the actor may be prosecuted under either this section or the other section or provision or both this section and the other section or provision. (d) When multiple payments or monetary or in-kind benefits are provided under one or more health care programs as a result of one scheme or continuing course of conduct, the conduct may be considered as one offense and the amounts of the payments or monetary or in-kind benefits aggregated in determining the grade of the offense. (e) The punishment prescribed for an offense under this section, other than the punishment prescribed by Subsection (b)(7), is increased to the punishment prescribed for the next highest category of offense if it is shown beyond a reasonable doubt on the trial of the offense that the actor was a high managerial agent at the time of the offense. (f) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves a health care program. **Credits** Added by *Acts 2005, 79th Leg., ch. 806, § 16, eff. Sept. 1, 2005*. Amended by *Acts 2007, 80th Leg., ch. 127, § 5, eff. Sept. 1, 2007*; *Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 8, eff. Sept. 1, 2011*; *Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 9, eff. Sept. 1, 2011*; *Acts 2015, 84th Leg., ch. 1251 (H.B. 1396), § 27, eff. Sept. 1, 2015*; *Acts 2019, 86th Leg., ch. 381 (H.B. 2894), § 6, eff. Sept. 1, 2019*.

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	Tex. Hum. Res. Code § 36.051 - **Injunctive Relief.** **(a)** If the attorney general has reason to believe that a person is committing, has committed, or is about to commit an unlawful act, the attorney general may institute an action for an appropriate order to restrain the person from committing or continuing to commit the act. **(b)** An action under this section shall be brought in a district court of Travis County or of a county in which any part of the unlawful act occurred, is occurring, or is about to occur. **History:** Enacted by *Acts 1995, 74th Leg., ch. 824 (H.B. 2523), § 1*, effective September 1, 1995; am. *Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4*.01(b), effective September 1, 1997 (renumbered from Sec. 36.003). Tex. Hum. Res. Code § 36.052 - **Civil Remedies.** (a) Except as provided by Subsection (c), a person who commits an unlawful act is liable to the state for: (1) the amount of any payment or the value of any monetary or in-kind benefit provided under a health care program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party; (2) interest on the amount of the payment or the value of the benefit described by Subdivision (1) at the prejudgment interest rate in effect on the day the payment or benefit was received or paid, for the period from the date the benefit was received or paid to the date that the state recovers the amount of the payment or value of the benefit; (3) a civil penalty of: (A) not less than $5,500 or the minimum amount imposed as provided by *31 U.S.C. Section 3729(a)*, if that amount exceeds $5,500, and not more than $15,000 or the maximum amount imposed as provided by *31 U.S.C. Section 3729(a)*, if that amount exceeds $15,000, for each unlawful act committed by the person that results in injury to an elderly person, as defined by *Section 48.002(a)(1)*, a person with a disability, as defined by *Section 48.002(a)(8)(A)*, or a person younger than 18 years of age; or (B) not less than $5,500 or the minimum amount imposed as provided by *31 U.S.C. Section 3729(a)*, if that amount exceeds $5,500, and not more than $11,000 or the maximum amount imposed as provided by *31 U.S.C. Section 3729(a)*, if that amount exceeds $11,000, for each unlawful act committed by the person that does not result in injury to a person described by Paragraph (A); and (4) two times the amount of the payment or the value of the benefit described by Subdivision (1). (b) In determining the amount of the civil penalty described by Subsection (a)(3), the trier of fact shall consider: (1) whether the person has previously violated the provisions of this chapter; (2) the seriousness of the unlawful act committed by the person, including the nature, circumstances, extent, and gravity of the unlawful act; (3) whether the health and safety of the public or an individual was threatened by the unlawful act; (4) whether the person acted in bad faith when the person engaged in the conduct that formed the basis of the unlawful act; and (5) the amount necessary to deter future unlawful acts. (c) The trier of fact may assess a total of not more than two times the amount of a payment or the value of a benefit described by Subsection (a)(1) if the trier of fact finds that: (1) the person furnished the attorney general with all information known to the person about the unlawful act not later than the 30th day after the date on which the person first obtained the information; and (2) at the time the person furnished all the information to the attorney general, the attorney general had not yet begun an investigation under this chapter. (d) An action under this section shall be brought in Travis County or in a county in which any part of the unlawful act occurred. (e) The attorney general may: (1) bring an action for civil remedies under this section together with a suit for injunctive relief under *Section 36.051*; or (2) institute an action for civil remedies independently of an action for injunctive relief. **Credits** **Added by** *Acts 1995, 74th Leg., ch. 824, § 1, eff. Sept. 1, 1995*. **Redesignated from** *V.T.C.A., Human Resources Code § 36.004* **by** *Acts 1997, 75th Leg., ch. 1153, § 4.01(b), eff. Sept. 1, 1997*. **Amended by** *Acts 1997, 75th Leg., ch. 1153, § 4.04, eff. Sept. 1, 1997*; *Acts 2005, 79th Leg., ch. 806, § 7, eff. Sept. 1, 2005*; *Acts 2007, 80th Leg., ch. 29, § 1, eff. May 4, 2007*; *Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 3, eff. Sept. 1, 2011*; *Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.183, eff. April 2, 2015*; *Acts 2023, 88th Leg., ch. 273 (S.B. 745), § 8, eff. Sept. 1, 2023*.
	Qui Tam Actions & Remedies
	Tex. Hum. Res. Code § 36.101 - Action by Private Person Authorized

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	§ 36.101. Action by Private Person Authorized (a) A person may bring a civil action for a violation of Section 36.002 for the person and for the state. The action shall be brought in the name of the person and of the state. (b) In an action brought under this subchapter, a person who violates Section 36.002 is liable as provided by Section 36.052. **History:** Enacted by *Acts 1997, 75th Leg., ch. 1153 (S.B. 30)*, § 4.08, effective September 1, 1997. Tex. Hum. Res. Code § 36.102 - **Initiation of Action.** **V.T.C.A., Human Resources Code § 36.102** **§ 36.102. Initiation of Action; Consent Required for Dismissal** ***Currentness*** **(**a) A person bringing an action under this subchapter shall serve a copy of the petition and a written disclosure of substantially all material evidence and information the person possesses on the attorney general in compliance with the Texas Rules of Civil Procedure. (b) The petition shall be filed in camera and, except as provided by Subsection (c-1) or (d), shall remain under seal until at least the 180th day after the date the petition is filed or the date on which the state elects to intervene, whichever is earlier. The petition may not be served on the defendant until the court orders service on the defendant. (c) The state may elect to intervene and proceed with the action not later than the 180th day after the date the attorney general receives the petition and the material evidence and information. (c-1) At the time the state intervenes, the attorney general may file a motion with the court requesting that the petition remain under seal for an extended period. (d) The state may, for good cause shown, move the court to extend the 180-day deadline under Subsection (b) or (c). A motion under this subsection may be supported by affidavits or other submissions in camera. (e) An action under this subchapter may be dismissed only if the court and the attorney general consent in writing to the dismissal and state their reasons for consenting**.** **Credits** **Added by** *Acts 1997, 75th Leg., ch. 1153, § 4.08, eff. Sept. 1, 1997*. **Amended by** *Acts 2005, 79th Leg., ch. 806, § 10, eff. Sept. 1, 2005*; *Acts 2019, 86th Leg., ch. 97 (H.B. 2004), §§ 1, 2, eff. Sept. 1, 2019*. Tex. Hum. Res. Code § 36.110 - **Award to Private Plaintiff.** **(a)** If the state proceeds with an action under this subchapter, the person bringing the action is entitled, except as provided by Subsection (b), to receive at least 15 percent but not more than 25 percent of the proceeds of the action, depending on the extent to which the person substantially contributed to the prosecution of the action. **(a-1)** If the state does not proceed with an action under this subchapter, the person bringing the action is entitled, except as provided by Subsection (b), to receive at least 25 percent but not more than 30 percent of the proceeds of the action. The entitlement of a person under this subsection is not affected by any subsequent intervention in the action by the state in accordance with Section 36.104(b-1). **(b)** If the court finds that the action is based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a Texas or federal criminal or civil hearing, in a Texas or federal legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award the amount the court considers appropriate but not more than 10 percent of the proceeds of the action. The court shall consider the significance of the information and the role of the person bringing the action in advancing the case to litigation. **(c)** A payment to a person under this section shall be made from the proceeds of the action. A person receiving a payment under this section is also entitled to receive from the defendant an amount for reasonable expenses, reasonable attorney's fees, and costs that the court finds to have been necessarily incurred. The court's determination of expenses, fees, and costs to be awarded under this subsection shall be made only after the defendant has been found liable in the action or the claim is settled. **(d)** In this section, "proceeds of the action" includes proceeds of a settlement of the action. **History:** Enacted by Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 806 (S.B. 563), § 13, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 29 (S.B. 362), § 5, effective May 4, 2007; am. Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 3, effective September 1, 2013; am. Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.184, effective April 2, 2015

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	Tex. Hum. Res. Code § 36.111 - **Reduction of Award.** **(a)** If the court finds that the action was brought by a person who planned and initiated the violation of Section 36.002 on which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action the person would otherwise receive under Section 36.110, taking into account the person's role in advancing the case to litigation and any relevant circumstances pertaining to the violation. **(b)** If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of Section 36.002, the court shall dismiss the person from the civil action and the person may not receive any share of the proceeds of the action. A dismissal under this subsection does not prejudice the right of the state to continue the action. **History:** Enacted by Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08, effective September 1, 1997. Tex. Hum. Res. Code § 36.113 - **Certain Actions Barred.** **(a)** A person may not bring an action under this subchapter that is based on allegations or transactions that are the subject of a civil suit or an administrative penalty proceeding in which the state is already a party. **(b)** The court shall dismiss an action or claim under this subchapter, unless opposed by the attorney general, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a Texas or federal criminal or civil hearing in which the state or an agent of the state is a party, in a Texas legislative or administrative report, or other Texas hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information. In this subsection, "original source" means an individual who: **(1)** prior to a public disclosure under this subsection, has voluntarily disclosed to the state the information on which allegations or transactions in a claim are based; or **(2)** has knowledge that is independent of and materially adds to the publicly disclosed allegation or transactions and who has voluntarily provided the information to the state before filing an action under this subchapter. **(c)** [Repealed by Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 6, effective September 1, 2013.] **History:** Enacted by Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 5, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 572 (S.B. 746), §§ 4, 6, effective September 1, 2013. .
	Whistle-blower Protections
	Tex. Hum. Res. Code § 36.115 **Retaliation by Employer Against Person Bringing Suit Prohibited** § 36.115. Retaliation by Employer Against Person Bringing Suit Prohibited (a) A person, including an employee, contractor, or agent, who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of a lawful act taken by the person or associated others in furtherance of an action under this subchapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this subchapter, or other efforts taken by the person to stop one or more violations of Section 36.002 is entitled to: (1) reinstatement with the same seniority status the person would have had but for the discrimination; and (2) not less than two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. (b) A person may bring an action in the appropriate district court for the relief provided in this section.

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	(c) A person must bring suit on an action under this section not later than the third anniversary of the date on which the cause of action accrues. For purposes of this section, the cause of action accrues on the date the retaliation occurs. **HISTORY:** Enacted by Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 398 (S.B. 544), §§ 6, 7, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 5, effective September 1, 2013.
Wyoming *Wyo. Stat.* § 42-4-301 - 306 Wyo. Stat. § 42-4-111 Wyo. Stat. § 9-11-101 to § 9-11-103	**Criminal and Civil Penalties for False Claims and Statements** *Other Helpful Information About Medicaid Fraud & Reporting Fraud* *Wyoming Medicaid Program Integrity - https://health.wyo.gov/healthcarefin/program-integrity/* *https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit* *https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit/frequently-asked-questions* *Wyo. Stat. § 42-4-301* - **Short title.** This act shall be known and may be cited as the "Wyoming Medicaid False Claims Act." **HISTORY:** Laws 2013, ch. 118, § 1. *Wyo. Stat. § 42-4-302* - **Definitions.** **(a)** As used in this act: **(i)** "Claim" means any request or demand under the Medicaid program, whether under a contract or otherwise, for money, property or services that: **(A)** Is presented to an officer, employee or agent of the state or a political subdivision of the state; or **(B)** Is made to a contractor, grantee or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state provides or has provided any portion of the money or property requested or demanded. **(ii)** "Material statement" means a statement that affects the payment or receipt of money or property; **(iii)** "This act" means *W.S. 42-4-301* through *42-4-306*. **HISTORY:** Laws 2013, ch. 118, § 1. *Wyo. Stat. § 42-4-303* - **Acts subjecting person to treble damages; costs and civil penalties; exceptions.** **W.S.1977 § 42-4-303** **§ 42-4-303. Acts subjecting person to treble damages; costs and civil penalties; exceptions** ***Currentness*** (a) Except as provided in subsection (c) of this section, any person who commits any of the following acts in relation to the Wyoming Medicaid program shall be liable to the state for three (3) times the amount of damages which the state sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the state for the costs of a civil action brought to recover any penalties or damages provided in this subsection, and shall be liable to the state for a civil penalty of not less than one thousand dollars ($1,000.00) and not more than ten thousand dollars ($10,000.00) for each violation: (i) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval; (ii) Knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim; (iii) Is a beneficiary of an inadvertent submission of a false claim to any employee, officer or agent of the state or a political subdivision of the state, or to any contractor, grantee or other recipient of state funds or funds of any political subdivision of the state, who subsequently discovers the falsity of the claim and fails to disclose the false claim and make satisfactory arrangements for repayment to the state or affected political subdivision within ninety (90) days after discovery of the false claim;

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	(iv) Conspires to commit a violation of paragraph (i), (ii) or (iii) of this subsection. (b) Notwithstanding subsection (a) of this section, the court may assess not more than two (2) times the amount of damages which the state sustains because of the act in violation of subsection (a) of this section, and no civil penalty, if the court finds all of the following: (i) The person committing the violation furnished officials of the state who are responsible for investigating false claims violations with all information known to that person about the violation within forty-five (45) days after the information is requested; and (ii) The person has substantially cooperated with any investigation by the state. (c) The provisions of subsections (a) and (b) of this section shall not apply to a recipient as defined by *W.S. 42-1-101(a)(v)*. Any recipient who knowingly: (i) Presents or causes to be presented a false or fraudulent claim shall be liable to the state for the amount of damages which the state sustains because of the claim and shall be liable for a civil penalty of not more than one thousand dollars ($1,000.00); (ii) Violates paragraph (i) of this subsection a second or subsequent time shall be liable to the state for three (3) times the amount of damages which the state sustains because of the claim and shall be liable for a civil penalty of not more than one thousand dollars ($1,000.00). Credits ***Laws 2013, ch. 118, § 1, eff. July 1, 2013.*** *W.S.1977 § 42-4-304* ***§ 42-4-304. Investigations and prosecutions; powers of prosecuting authority; remedies for retaliation; venue; no private right of action*** *Currentness* *(a) The Medicaid fraud control unit created by W.S. 42-4-403 or a district attorney may investigate alleged violations of W.S. 42-4-303(a) and (c). If the Medicaid fraud control unit or district attorney finds that a person has violated or is violating W.S. 42-4-303(a) or (c), the unit or district attorney may bring a civil action under this section against that person.* *(b) Any employee, contractor or agent of a person being investigated for a violation of W.S. 42-4-303(a) shall be entitled to recover all economic damages suffered if that employee, contractor or agent is discharged, demoted, suspended, threatened, harassed or in any other manner retaliated against in the terms and conditions of employment because of lawful acts taken in good faith by the employee or others in an action reported, filed or investigated under this act. An action by an employee, contractor or agent under this subsection shall not be brought more than three (3) years after the date when the retaliation occurred. A person may bring an action in the appropriate district court for the relief provided in this subsection. This subsection shall not otherwise be construed to create a private cause of action for violations of this act and is limited to the remedies expressly created by this subsection related to employment retaliation.* *(c) Except as provided in subsection (b) of this section, any action under this act may be brought in the district court of any county in which the defendant, or any of them, resides. If the defendant is not a resident of the state of Wyoming, the action shall be brought in the first judicial district court in Laramie County.* *(d) Except as provided in subsection (b) of this section, nothing in this act shall be construed to create a private cause of action.* *(e) The remedies provided in this act are separate from and additional to any remedies available under the State Government Fraud Reduction Act.* ***Credits*** *Laws 2013, ch. 118, § 1, eff. July 1, 2013; Laws 2019, ch. 96, § 2, eff. Feb. 26, 2019.* *Wyo. Stat. § 42-4-305* - **Limitation of actions; retroactivity; burden of proof.** **(a)** A civil action under *W.S. 42-4-304(a)* shall not be brought more than six (6) years after the date on which the violation was committed or more than three (3) 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, whichever occurs last, provided that in no event shall a civil action be brought more than seven (7) years after the date on which the violation is committed. **(b)** In any action brought under *W.S. 42-4-304(a)*, the state shall be required to prove all essential elements of the cause of action, including damages, by clear and convincing evidence. **(c)** Notwithstanding any other provision of law, a guilty verdict rendered in a criminal proceeding charging false statements or fraud is admissible in any civil action which involves the same transaction as in the criminal proceeding and which is brought under *W.S. 42-4-304*. **HISTORY:** Laws 2013, ch. 118, § 1. *Wyo. Stat. § 42-4-306* - **Remedies under other laws; liberality of construction; joint and several liability.**

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	(a) The provisions of this act are not exclusive, and the remedies provided for in this act shall be in addition to any other remedies provided for in any other law or available under common law. **(b)** Liability pursuant to this act is joint and several for any violation done by two (2) or more persons. **HISTORY:** Laws 2013, ch. 118, § 1. Title 42 Welfare Chapter 4 Medical Assistance and Services Article 1. In General Wyo. Stat. § 42-4-102 - **Definitions.** **(a)** As used in this chapter: **(i)** "Categorically eligible" means any individual in need of medical assistance authorized by the legislature and by Title XIX of the federal Social Security Act to be covered by a state plan for medical assistance and services; **(ii)** "Medical assistance" means partial or full payment of the reasonable charges assessed by any authorized provider of the services and supplies enumerated under *W.S. 42-4-103* and consistent with limitations and reimbursement methodologies established by the department, which are provided on behalf of a qualified recipient, excluding those services and supplies provided by any relative of the recipient, unless the relative is a family caregiver providing services through a corporation or a limited liability company, which corporation or limited liability company the relative may own, under a home and community based waiver program, or for cosmetic purposes only; **(iii)** "Qualified" means any categorically eligible individual satisfying eligibility criteria imposed by this chapter, the state plan for medical assistance and services and by rule and regulation of the department; **(iv)** "Relative" means any person as defined by department rule and regulation; **(v)** "Resident" means any individual residing in this state, including any individual temporarily absent from this state; **(vi)** "Institutionalized spouse" means as defined by the Medicare Catastrophic Coverage Act of 1988, P.L. 100-360; **(vii)** "Department" means the state department of health; **(viii)** "Direct patient care personnel" means only: **(A)** Certified nursing assistants; **(B)** Licensed practical nurses; **(C)** Registered nurses. **(ix)** "Skilled nursing home extraordinary care" means skilled nursing home services clearly exceeding standard skilled nursing home services and meeting the criteria established by the department pursuant to *W.S. 42-4-104(d)*; **(x)** "Intermediate care facility for people with intellectual disability" means "intermediate care facility for the mentally retarded" or "ICFMR" or "ICFs/MR" as those terms are used in federal law and in other laws, rules and regulations;

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	(xi) "Family caregiver" means a relative of a waiver recipient with a developmental disability or acquired brain injury, who provides waiver services through a corporation or a limited liability company, which corporation or limited liability company the relative may own, to the person with a developmental disability or acquired brain injury and who meets the requirements for a qualified family caregiver as established by rules promulgated by the department. Family caregivers shall be certified by the department in the same manner as nonfamily caregivers. For purposes of providing for reimbursement of services to a family caregiver, the department shall amend the state plan and apply for a waiver from the centers for Medicaid and Medicare services, as necessary; **(xii)** "Intentional" means that a person, with respect to information, intended to act in violation of the law; **(xiii)** "Knowing" or "knowingly" includes intentional or intentionally and means that a person, with respect to information, acts: **(A)** With actual knowledge of the information; **(B)** In deliberate ignorance of the truth or falsity of the information; or **(C)** In reckless disregard of the truth or falsity of the information. **HISTORY:** Laws 1967, ch. 238, § 3; W.S. 1957, § 42-66; Laws 1969, ch. 38, § 1; 1973, ch. 53, § 1; ch. 75, § 1; ch. 110, § 1; 1975, ch. 28, § 1; 1976, ch. 2, § 1; 1977, ch. 18, § 1; W.S. 1977, *§§ 6-5-201*, *42-4-103*; Laws 1980, ch. 28, § 1; ch. 29, § 1; 1982, ch. 75, § 3; 1983, ch. 171, § 1; 1984, ch. 23, § 1; 1985, ch. 165, § 1; 1986, ch. 30, § 1; ch. 79, § 1; 1988, ch. 34, § 2; *1990, ch. 65, § 1*; *1991, ch. 221, § 2*; *2002 Sp. Sess., ch. 63, § 1*; *2008, ch. 70, § 1*; *2011, ch. 164, § 1*; *2013, ch. 118, § 2*. Wyo. Stat. § 42-4-111 **Providing or obtaining assistance by misrepresentation; penalties.** **§ 42-4-111. Providing or obtaining assistance by misrepresentation; penalties** *Currentness* (a), (b) Repealed by *Laws 2019, ch. 96, § 3, eff. Feb. 26, 2019.* (c) No person shall knowingly make a false statement or misrepresentation or knowingly fail to disclose a material fact in obtaining medical assistance under this chapter. A person violating this subsection is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both. (d), (e) Repealed by *Laws 2019, ch. 96, § 3, eff. Feb. 26, 2019.* **Credits** Title 26 Insurance Code Chapter 13 Trade Practices and Frauds Article 2. False Applications, Claims and Proof of Loss Wyo. Stat. § 26-13-201 **False applications, claims and proofs of loss prohibited.** **(a)** No person shall knowingly or willfully: **(i)** Make any false or fraudulent statement or representation in or with reference to any application for insurance or for the purpose of obtaining any money or benefit; **(ii)** Present or cause to be presented a false or fraudulent claim or any proof in support of a claim for the payment of the loss upon a contract of insurance;

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	(iii) Prepare, make or subscribe a false or fraudulent certificate, or other document with intent that the certificate or other document may be presented or used in support of the claim. **HISTORY:** (Laws 1967, ch. 136, § 265; W.S. 1957, § 26.1-265; W.S. 1977, *§ 26-13-124*; Laws 1983, ch. 190, § 1.) Wyo. Stat. § 26-13-202 **Penalties.** Any person who violates this article is subject to the penalty provided in *W.S. 26-1-107*, or as provided by any other applicable law which provides a greater penalty. **HISTORY:** (Laws 1967, ch. 136, § 265; W.S. 1957, § 26.1-264; W.S. 1977, *§ 26-13-124*; Laws 1983, ch. 190, § 1.) Wyo. Stat. § 26-1-107 **General criminal and civil penalties.** **(a)** Each violation of this code [title 26] for which a greater penalty is not provided by another provision of this code or by other applicable laws of this state, in addition to any applicable prescribed denial, suspension or revocation of certificate of authority or license, is a misdemeanor punishable upon conviction by a fine of not more than one thousand dollars ($ 1,000.00), or by imprisonment in the county jail for not more than six (6) months, or both. Each violation is a separate offense. **(b)** Any person who violates, or who instructs his agent or adjuster to violate, any provision of this code, any lawful rule or final order of the commissioner or any final judgment or decree made by any court, upon the commissioner's application, shall pay a civil penalty in an amount the commissioner determines of not more than five thousand dollars ($ 5,000.00) for each offense, or fifty thousand dollars ($ 50,000.00) in the aggregate for all offenses within any one (1) year period. In the case of individual agents or adjusters, the civil penalty shall be not more than one thousand dollars ($ 1,000.00) for each offense or ten thousand dollars ($ 10,000.00) in the aggregate for all offenses within any one (1) year period. The penalty shall be collected from the violator and paid by the commissioner, or the appropriate court, to the state treasurer and credited as provided in *W.S. 8-1-109*. **(c)** Before the commissioner imposes a civil penalty, he shall notify the person, agent or adjuster accused of a violation, in writing, stating specifically the nature of the alleged violation and fixing a time and place, at least ten (10) days from the date of the notice, when a hearing of the matter shall be held. After hearing or upon failure of the accused to appear at the hearing, the commissioner shall determine the amount of the civil penalty to be imposed in accordance with the limitations expressed in subsection (b) of this section. Each violation is a separate offense. **(d)** A civil penalty may be recovered in an action brought thereon in the name of the state of Wyoming in any court of appropriate jurisdiction, and the court may review the penalty as to both liability and reasonableness of amount. **(e)** The provisions of this section are in addition to and not instead of any other enforcement provisions contained in this code. **HISTORY:** Laws 1967, ch. 136, § 15; W.S. 1957, § 26.1-15; Laws 1971, ch. 149, § 1; W.S. 1977, § 26-1-115; Laws 1979, ch. 148, § 1; 1983, ch. 190, § 1; *2005, ch. 157, § 2*; *2015, ch. 13, § 1*. Public Health & Safety Wyo. Stat. § 35-1-105 **Prohibited acts; penalty for violations.** **(a)** No person, corporation or other organization nor representative thereof shall: **(i)** Willfully violate, disobey or disregard the provisions of the public health laws of Wyoming or the terms of any lawful notice, order, rule or regulation issued pursuant thereto; **(ii)** Repealed by Laws 1982, ch. 75, § 5. **(iii)** Being a person charged by law or rule of the department of health with the duty of reporting the existence of disease or other facts and statistics relating to the public health, fail to make or file such reports as required by law or requirement of the department; **(iv)** Conduct a business or activity for which the department requires a certificate or permit without such a certificate or permit; **(v)** Willfully and falsely make or alter any certificate or certified copy thereof issued pursuant to public health laws of Wyoming;

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	(vi) Knowingly transport or accept for transportation, interment or other disposition a dead human body without an accompanying permit issued in accordance with the public health laws of Wyoming or the rules of the department; or **(vii)** Being the owner or occupant of private property upon which there shall exist a nuisance, source of filth or cause of sickness, willfully fail to remove the same at his own expense within forty-eight (48) hours after being ordered to do so by health authorities. **(b)** Upon conviction of any of the offenses prohibited in subsection (a) of this section, the violator shall be fined not to exceed one hundred dollars ($100.00) or imprisonment not to exceed six (6) months, or both, and shall be liable for all expense incurred by health authorities in removing the nuisance, source of filth or cause of sickness. No conviction under the penalty provisions of this act or of any other public health laws shall relieve any person from an action in damages for injury resulting from violation of public health laws. ***History - Laws 1947, ch. 67, § 11; W.S. 1957, § 34-5; Laws 1961, ch. 207, § 1; 1982, ch. 75, § 5; 1983, ch. 171, § 3;*** 1991, ch. 221, § 2*;* 2012, ch. 98, § 1*;* 2017, ch. 172, § 1*.* Wyo. Stat. § 35-1-106 **Penalty for violations.** Any person who shall violate any of the provisions of this act, or any lawful rule or regulation made by the state department of health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal health officer pursuant to the authority granted in this act shall be deemed guilty of misdemeanor, and shall be punished except as otherwise provided therein by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment for not more than one (1) year or by both such fine and imprisonment. **HISTORY:** (Laws 1921, ch. 160, § 27; R.S. 1931, § 103-238; C.S. 1945, § 63-143; W.S. 1957, § 35-6; *Laws 1991, ch. 221, § 2*.) Title 33 Professions and Occupations Chapter 26 Physicians and Surgeons Article 4. Investigations and Disciplinary Proceedings Wyo. Stat. § 33-26-402 **W.S.1977 § 33-26-402** **§ 33-26-402. Grounds for suspension; revocation; restriction; imposition of conditions; refusal to renew or other disciplinary action** ***Currentness*** (a) The board may refuse to renew, and may revoke, suspend or restrict a license or take other disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the following grounds: (i) Renewing, obtaining or attempting to obtain or renew a license by bribery, fraud or misrepresentation; (ii) Impersonating another licensee or practicing medicine under a false or assumed name; (iii) Making false or misleading statements regarding the licensee's skill or the efficacy or value of his treatment or remedy for a human disease, injury, deformity, ailment, pregnancy or delivery of infants; (iv) Permitting or allowing any person to use his diploma, license or certificate of registration; (v) Advertising the practice of medicine in a misleading, false or deceptive manner; (vi) Obtaining any fee or claim for payment of a fee by fraud or misrepresentation; (vii) Repealed by *Laws 2018, ch. 80, § 3.* (viii) Conviction of or pleading guilty or nolo contendere to a felony or any crime that is a felony under Wyoming law in any jurisdiction; (ix) Aiding or abetting the practice of medicine by a person not licensed by the board; (x) Violating or attempting to violate or assist in the violation of any provision of this chapter or any other applicable provision of law; (xi) Except as permitted by law, repeatedly prescribing or administering, selling or supplying any drug legally classified as a narcotic, addicting or scheduled drug to a known abuser; (xii) Repeatedly prescribing, selling, supplying or administering any drug legally classified as a narcotic, addicting or scheduled drug to a parent, spouse or child of the applicant or licensee, or to himself; (xiii) Presigning blank prescription forms; (xiv) Failing or refusing to properly guard against the spread of contagious, infectious or communicable diseases; (xv) Failure to appropriately supervise nonphysicians to whom the licensee has delegated medical responsibilities; (xvi) Delegating responsibilities to a person who is not qualified by training, experience or licensure;

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	(xvii) Delegating medical responsibilities to a person who is unable to safely, skillfully and competently provide medical care to patients or that are beyond the scope of the specialty areas in which the licensee and the person are trained and experienced; (xviii) Willful and consistent utilization of medical service or treatment which is inappropriate or unnecessary; (xix) A manifest incapacity to practice medicine with reasonable skill and safety to patients; (xx) Possession of any physical or mental disability including deterioration due to aging which renders the practice of medicine unsafe; (xxi) Use of a drug or intoxicant to such a degree as to render the licensee unable to practice medicine or surgery with reasonable skill and safety to patients; (xxii) Practicing medicine below the applicable standard of care, regardless of causation or damage; (xxiii) Failure to submit to an informal interview or a mental, physical or medical competency examination following a proper request by the board pursuant to *W.S. 33-26-403*; (xxiv) Failure to report a personal injury claim as required by *W.S. 33-26-409*; (xxv) Suspension, probation, imposition of conditions or restrictions, relinquishment, surrender or revocation of a license to practice medicine in another jurisdiction; (xxvi) Any action by a health care entity that: (A) Adversely affects clinical privileges for a period of thirty (30) or more consecutive days; (B) Results in the surrender of clinical privileges to the health care entity while the licensee is under investigation by the health care entity for possible professional incompetence or improper professional conduct; or (C) Results in the surrender of clinical privileges in return for the health care entity not conducting an investigation for possible professional incompetence or improper professional conduct. (xxvii) Unprofessional or dishonorable conduct not otherwise specified in this subsection, including but not limited to: (A) Repealed by *Laws 2003, ch. 190, § 3.* (B) Failure to conform to the applicable standard of care; (C) Willful or careless disregard for the health, welfare or safety of a patient; (D) Engaging in any conduct or practice that is harmful or dangerous to the health of a patient or the public; (E) Engaging in conduct intended to or likely to deceive, defraud or harm the public; (F) Using any false, fraudulent or deceptive statement in any document connected with the practice of medicine including the intentional falsification or fraudulent alteration of a patient or health care facility record; (G) Failing to prepare and maintain legible and complete written medical records that accurately describe the medical services rendered to the patient, including the patient's history, pertinent findings, examination, results, test results and all treatment provided; (H) Practicing outside of the scope of the licensee's expertise and training; (J) Repeatedly engaging in harassing, disruptive or abusive behavior directed at staff, co-workers, a patient or a patient's relative or guardian or that interferes with the provision of patient care; (K) Engaging in conduct that relates adversely to the practice of medicine or to the ability to practice medicine, including but not limited to conviction of or pleading guilty or nolo contendere to domestic abuse, stalking, sexual assault, sexual abuse or unlawful exploitation of a minor, indecent exposure, incest or distribution of pornography; (M) Failing or neglecting to attempt to inform a patient within a reasonable time of the results of a laboratory test indicating the need for further clinical review; (N) Improperly terminating a physician-patient relationship; (O) Representing that a manifestly incurable disease or condition can be permanently cured or that any disease or condition can be cured by a secret method, procedure, treatment, medicine or device if the representation is untrue; (P) Intentionally or negligently releasing or disclosing confidential patient information. This restriction shall not apply to disclosures permitted or required by state or federal law or when disclosure is necessary to prevent imminent risk of harm to the patient or others; (Q) Failing or refusing to transfer a copy of patient records to the patient or the patient's legally designated representative within thirty (30) days after receipt of a written request; (R) Utilization of experimental forms of therapy without proper informed consent from the patient, without conforming to generally-accepted criteria or standard protocols, without keeping detailed, legible records or without having periodic analysis of the study and results reviewed by a committee of peers; (S) Except in emergency situations where the consent of the patient or the patient's legally designated representative cannot be reasonably obtained, assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representative; (T) Using or engaging in fraud or deceit to obtain third party reimbursement. (xxviii) Upon proper request by the board, failure or refusal to produce documents or other information relevant to any investigation conducted by the board, whether the complaint is filed against the licensee or any other licensee; (xxix), (xxx) Repealed by *Laws 2003, ch. 190, § 3.* (xxxi) Violation of any board rule or regulation; (xxxii) Acquiring or attempting or conspiring to acquire any drug classified as a narcotic, addicting or scheduled drug by fraud or deception;

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	(xxxiii) Initially prescribing any controlled substance specified in W.S. 35-7-1016 through 35-7-1022 for any person through the Internet, the World Wide Web or a similar proprietary or common carrier electronic system absent a documented physician-patient relationship; (xxxiv) Violating any final order, consent decree or stipulation between the board and the licensee; (xxxv) Any behavior by a licensee toward a patient, former patient, another licensee, an employee of a health care facility, an employee of the licensee or a relative or guardian of a patient that exploits the position of trust, knowledge, emotions or influence of the licensee; (xxxvi) Violating W.S. 35-4-1001. (b) Upon a finding of ineligibility for licensure or refusal to grant a license under subsection (a) of this section, the board shall file its written order and findings. **Credits** **Laws 1976, ch. 24, § 1; Laws 1987, ch. 79, § 1; Laws 1991, ch. 143, § 1; Laws 1995, ch. 129, § 1, eff. July 1, 1995; Laws 2003, ch. 190, §§ 2, 3, eff. July 1, 2003; Laws 2009, ch. 201, § 1, eff. March 12, 2009; Laws 2018, ch. 80, §§ 2, 3, eff. July 1, 2018; Laws 2018, ch. 107, § 2, eff. July 1, 2018; Laws 2024, ch. 113, § 2, eff. July 1, 2024.**
	Qui Tam Actions & Remedies
	None
	Whistle-blower Protections
	W.S.1977 § 42-4-304 ***§ 42-4-304. Investigations and prosecutions; powers of prosecuting authority; remedies for retaliation; venue; no private right of action*** *Currentness* *(a) The Medicaid fraud control unit created by W.S. 42-4-403 or a district attorney may investigate alleged violations of W.S. 42-4-303(a) and (c). If the Medicaid fraud control unit or district attorney finds that a person has violated or is violating W.S. 42-4-303(a) or (c), the unit or district attorney may bring a civil action under this section against that person.* *(b) Any employee, contractor or agent of a person being investigated for a violation of W.S. 42-4-303(a) shall be entitled to recover all economic damages suffered if that employee, contractor or agent is discharged, demoted, suspended, threatened, harassed or in any other manner retaliated against in the terms and conditions of employment because of lawful acts taken in good faith by the employee or others in an action reported, filed or investigated under this act. An action by an employee, contractor or agent under this subsection shall not be brought more than three (3) years after the date when the retaliation occurred. A person may bring an action in the appropriate district court for the relief provided in this subsection. This subsection shall not otherwise be construed to create a private cause of action for violations of this act and is limited to the remedies expressly created by this subsection related to employment retaliation.* *(c) Except as provided in subsection (b) of this section, any action under this act may be brought in the district court of any county in which the defendant, or any of them, resides. If the defendant is not a resident of the state of Wyoming, the action shall be brought in the first judicial district court in Laramie County.* *(d) Except as provided in subsection (b) of this section, nothing in this act shall be construed to create a private cause of action.* *(e) The remedies provided in this act are separate from and additional to any remedies available under the State Government Fraud Reduction Act.* ***Credits*** *Laws 2013, ch. 118, § 1, eff. July 1, 2013; Laws 2019, ch. 96, § 2, eff. Feb. 26, 2019.* Wyo. Stat. § 9-11-101 This chapter may be cited as the **"State Government Fraud Reduction Act."** **HISTORY:** *Laws 1996, ch. 123, § 1.* Wyo. Stat. § 9-11-102 **Definitions; applicability.** **(a)** As used in this chapter: **(i)** "Employee" means any person who works an average of twenty (20) hours or more per week during any six (6) month period and who is employed by the state performing a service for wages or other remuneration, excluding an independent contractor;

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	(ii) "Political subdivision" means a county, municipal or special district governing body or any combination thereof, school district or municipal corporation or a board, department, commission, council, agency or any member or employee thereof; **(iii)** "State" means the state of Wyoming and any authority, board, commission, department, division or separate operating agency of the executive, legislative or judicial branch of the state of Wyoming, excluding its political subdivisions. **HISTORY:** (*Laws 1996, ch. 123, § 1*.) Wyo. Stat. § 9-11-103 **Discrimination against certain employees prohibited; civil action against employer.** **(a)** No state employer may discharge, discipline or retaliate against an employee by unreasonably altering the terms, location or conditions of employment because the employee acting in good faith and within the scope of duties of employment: **(i)** Reports in writing to the employer what the employee has reasonable cause to believe is a demonstration of fraud, waste or gross mismanagement in state government office; **(ii)** Reports in writing to the employer what the employee has reasonable cause to believe is a violation of a law, regulation, code or rule adopted under the laws of this state or the United States; **(iii)** Reports in writing to the employer what the employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that employee or any other individual; **(iv)** Participates or is requested to participate in any investigation, hearing or inquiry; or **(v)** Has refused to carry out a directive which is beyond the scope, terms and conditions of his employment that would expose the employee or any individual to a condition likely to result in serious injury or death, after having sought and been unable to obtain a correction of the dangerous condition from the employer. **(b)** Subsection (a) of this section does not apply to an employee who has reported or caused to be reported a violation or unsafe condition or practice, unless the employee has first brought the alleged violation, condition or practice to the attention of a person having supervisory authority over the employee and has allowed the state employer a reasonable opportunity to correct that violation, condition or practice. Prior notice to a person having supervisory authority is not required if the employee reasonably believes that the report may not result in prompt correction of the violation, condition or practice. In such cases, the employee shall report the violation, condition or practice to the department or agency director of the state entity with which he is employed or to the office of the governor. In the event the alleged violation, condition or practice occurred within the office of the governor, the employee may report the violation, condition or practice to the office of the secretary of state. **(c)** Any employee who is discharged, disciplined or otherwise penalized by a state employer in violation of this section may after exhausting all available administrative remedies, bring a civil action within ninety (90) days after the date of the final administrative determination or within ninety (90) days after the violation, whichever is later, in the district court for the judicial district in which the violation is alleged to have occurred or where the state employer has its principal office. An employee's recovery from any action under this section shall be limited to reinstatement of his previous job, payment of back wages and re-establishment of employee benefits to which he would have otherwise been entitled if the violation had not occurred. In addition, the court may allow the prevailing party his costs together with reasonable attorney's fees to be taxed by the court. Any employee found to have knowingly made a false report shall be subject to disciplinary action by his employer up to and including dismissal. **(d)** A state employer shall ensure that its employees are aware of their rights under this chapter. **HISTORY:** *Laws 1996, ch. 123, § 1*; *2013, ch. 16, § 1*.

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